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CROSS-FLORIDA BARGE CANAL

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HEARING

BEFORE THE

SUBCOMMITTEE ON WATER RESOURCES

OF THE

COMMITTEE ON PUBLIC WORKS AND TRANSPORTATION HOUSE OF REPRESENTATIVES

NINETY-NINTH CONGRESS

FIRST SESSION

JUNE 10, 1985, PALATKA, FL

Printed for the use of the
Committee on Public Works and Transportation

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CROSS-FLORIDA BARGE CANAL

JUNE 10, 1985

U.S. House of Representatives,
Subcommittee on Water Resources,
Committee on Public Works and Transportation,
Palatka, FL.

The subcommittee met, pursuant to call, at 9:30 a.m., on June 10, 1985, in the Water Management District Office, Palatka, FL; the Honorable Robert A. Roe (chairman of the subcommittee) presiding.

Present: Messrs. Roe, Stangeland, Shaw, MacKay, and Chappell.

Mr. Roe. Gentlemen, we want to thank at the outset, the good Governor Graham for the hospitality that has been extended to us on our visitation here in Florida.

This morning the Subcommittee on Water Resources of the Committee on Public Works and Transportation meets to receive testimony on the Cross-Florida Barge Canal.

The Cross-Florida Barge Canal would provide a barge waterway route between the St. Johns River at Palatka and the Gulf of Mexico at Yankeetown, a distance of about 110 miles. The project would include three dams, five locks, a channel 12 feet deep and 150 feet wide.

Construction of the project was started in February 1964 and terminated by the President in January 1971, after about 25 miles of channel, three of the five locks, the three dams and four bridges were completed. The President ordered that further construction be halted to prevent potential serious environmental damage and directed that work in progress be terminated in an orderly manner to leave the affected areas in a safe condition.

The project has been quite controversial and numerous bills have been introduced in the House of Representatives to deauthorize it. Last year during the consideration by the House of Representatives of our water resources development bill an amendment was offered which would have deauthorized the project. While this amendment was not adopted, our subcommittee did agree to inspect this project and to hold a hearing on it in order to receive firsthand information with regard to the issues involved.

Yesterday we inspected the project both from the air and on the water and also received a briefing on its history from the Corps of Engineers. That information together with the information we will receive from witnesses today will assist us in our attempts to find a solution to the problems surrounding this project.

Before I call our first witness today, we have a number of your distinguished Representatives, from the great State of Florida here—including Congressman Buddy MacKay and Congressman Clay Shaw. And now may I defer for opening comments from our distinguished ranking minority member, the Honorable Arlan Stangeland from the State of Minnesota.

Mr. Stangeland.

Mr. **Stangeland**. Thank you, Mr. Chairman. I am pleased to join you and our colleagues here this morning to conduct this hearing on the Cross-Florida Barge Canal water project for the U.S. Army Corps of Engineers.

Yesterday, we had an opportunity to be briefed by the corps on the project, to overfly and view the project from the air and to see and travel a portion by boat, of the Lake Oklahawa. This has given us an excellent firsthand appreciation for the physical layout associated with both the completed and uncompleted portions of the project.

At this morning's hearing, I anticipate that the subcommittee will receive a wealth of detailed information concerning the arguments both for and against continuation of the Cross-Florida project's authorization. I think we recognize how important the issue is of continued authorization, and also how controversial the issue is.

Our objective of this field trip is to develop the most complete record we can with which to make our decisions resolving the issue, and I look forward to the help that I know our witnesses will give us toward this end, and look forward to this hearing.

Mr. **Roe**. Thank you. Are there any other members that want to make an opening comment? Buddy? Clay?

Mr. **MacKay**. No.

Mr. **Shaw**. Mr. Chairman, I would like to thank you as chairman and Arlan as the ranking member for coming down to Florida and taking a close look at this particular project.

Yesterday, we were out on the river and the lake and I always depend on my friend Buddy to keep me straight on the pronunciation of the river—Lockawaha? [Laughter.]

Mr. **MacKay**. You are doing all right. Another year or so and you will make it.

Mr. **Shaw**. It is my second time on the river, so some of us from south Florida are slower learners than you all are up here.

But I feel very strongly that any time the Public Works Committee of the U.S. Congress is going to do anything that is going to substantially affect the environment or particularly destroy such a beautiful river, that we should take a personal look at it. And that is exactly what we did yesterday. There is no more beautiful river in the State of Florida—no harder name to pronounce either.

The chairman stated, as did Mr. Stangeland, that this has been quite controversial—we understand that. The Florida delegation in Washington, both in the House and in the Senate, works closer together perhaps than any delegation of any other State in the entire country.

Mr. **Roe**. Other than that of New Jersey.

Mr. **Shaw**. Well, I was going to say other than on this particular issue. We are very badly split. I am delighted to be here, I am very close friends with Congressman Chappell and, of course, Congressman MacKay. Congressman MacKay has been taking the lead on this particular issue for deauthorization. I think on this issue he is absolutely correct, and I am doing everything that I can in order to try to assist him in his efforts.

Congressman Chappell, however, is one of the finest Members in the U.S. Congress, and I usually find myself in full agreement with him, but not on this specific issue.

It is a delight to have you all in Florida, and we very much appreciate you taking the time to come down and personally take a look and visit with the people of Florida and hear what we are thinking and of course we are delighted to have Governor Graham and later Attorney General Smith will be here, and, of course, our friend Lawton Chiles from Washington, the senior Senator from the State of Florida.

I offer my prepared statement for the record.

Thank you, Mr. Chairman.

Mr. Roe. I thank the gentleman from Florida.

[Mr. Chappell's prepared statement follows:]

STATEMENT BY HON. WILLIAM V. CHAPPELL, JR.

Mr. Chairman: First, let me thank both you and Mr. Stangeland personally and express the appreciation of the residents of the Fourth Congressional District for your coming to Florida for this hearing. Those of us who oppose deauthorization of the Cross Florida Barge Canal are grateful for the opportunity to give testimony to your distinguished committee today.

You have already heard from those who propose to deauthorize the project and their reasons for doing so. You have heard the horror stories and scare tactics that have been circulated over the past few years by those who would have the project killed. I strongly urge that your committee take a careful and objective look at the question of deauthorization.

What would be accomplished by such action?

What useful purpose would be served?

On the other hand, look at the havoc that would result from deauthorization, the loss of assets now in hand and the enormous litigation costs.

It is now time to consider the truth of the matter—calmly and deliberately.

What I have to say about the canal is not based on conjecture—is not what some group happens to think—and is not a slanted horror story in the form of emotional argument. What I have to say is based on the findings of the Subcommittee on Energy and Water Development of the House Committee on Appropriations, the work of the Army Corps of Engineers and the various independent researchers who have contributed to the fund of knowledge our committee has developed over the years.

During hearings on this issue in the House on April 21, 1977, the Corps of Engineers and other expert witnesses testified that: There would be *no* damage to the quality of the ground water—or the ground water supply—from completion of the canal; there would be no damage to the aquifer; the water supply of South Florida would *not* be affected; extensive tests show *no* danger of salt water intrusion as a result of construction; and that studies indicate *no* lowering of the water table—aside from normal scattered fluctuations along the canal littoral.

The testimony also established that stored water on the order of a six-month emergency supply for a city the size of Miami or St. Petersburg would be available when the Cross Florida Barge Canal is completed—should an extreme emergency require it.

Based upon the testimony and evidence presented, the Energy and Water Development Subcommittee concluded that the project construction and operation would result in *no* adverse environmental impacts—that cannot be completely overcome by sound engineering practices.

With regard to rare or endangered species, it was confirmed that none would be significantly affected by the project. Further, the portions of the canal already completed have improved the habitat for ospreys, eagles, wading birds, water fowl, nesting sea birds, diamond-back terrapins and alligators. Sports fishing has also been enhanced by construction to date. For example, bass fishing on Lake Oklawaha has become a national attraction where over 400,000 visitations occur yearly, mostly for fishing purposes.

From an environmental standpoint, that is what the Subcommittee findings were. Those are the facts.

Mr. Chairman, I would ask—Has there been any hard evidence presented which refutes these findings? The answer, I believe, must be in the negative.

Let us consider the real issue. It can be stated quite simply.

As a result of the Appropriations Committee hearings, our committee concluded that the economic study by the Corps of Engineers was incomplete—failing to include four categories of economic benefits. For this reason, our committee and the full House directed the Corps to update the completed portions of the economic study and to add those categories not previously included: Area redevelopment; regional economic benefits; contingency benefits, and the movement of coal for electric power generation by barge. Considering the federal investment in the canal and the potential benefits, it would be imprudent to abandon the canal without knowing all the economic facts.

My position is to maintain the status quo—not continue efforts for completion of the project at this time—but to strongly oppose deauthorization. We must await the results of the economic benefits study before making any decision on the future of this project.

By maintaining the status quo, we are able to keep all current assets in hand. These include 25 miles of channel, three of five locks, three dams, and four bridges. The project has developed valuable public recreation areas at both the eastern end—Lake Oklawaha—and the western end—Lake Rousseau and the canal to the Gulf of Mexico—of the right of way.

Various portions of the right of way for the canal have been acquired by the Corps of Engineers and the state Canal Authority over the years, some in fee simple title and some via easements for canal construction. In many cases, the easements resulted from court decisions denying the State the authority to condemn the fee simple title to the land. Since the halt of construction, the original owners have been seeking return of their land in the courts.

Significant portions of Lake Oklawaha and surrounding areas are only under easement, not owned by either the Canal Authority or the Corps. As such, these valuable recreation areas would most likely be lost should the Cross Florida Barge Canal Project be deauthorized.

To deauthorize the project would cost millions of dollars—an important consideration, especially during these times of Federal budget constraints. In addition, litigation costs in connection with easements, revisionary rights and compensation for enhancements would be enormous. The State of Florida, which would lose control of the easement lands upon deauthorization, would attempt to condemn these lands for which it would be required to pay current market value if successful, in order to turn around and sell them to the Federal government, also at current market value. This land has already been the subject of extensive litigation and the Florida Supreme Court has already refused to grant the state fee simple title on it for canal purposes. Accordingly, it cannot be taken for granted that the courts would approve condemnation for the sole purpose of selling the land to the Federal government, particularly inasmuch as the Federal government has power on its own to acquire the land if it so desires. Thus, deauthorization poses considerable and unacceptable risks of still losing a major portion of Lake Oklawaha to private ownership. Equally unacceptable, is the fact that the taxpayers would be essentially required to pay for Lake Oklawaha twice.

Mr. Chairman, I respectfully request that your committee carefully consider the following points: A variety of false issues have been raised—tending to confuse and complicate an otherwise straightforward proposition; The Cross Florida Barge Canal poses no real threat to the environment; We must act responsibly on behalf of the taxpayers; The resultant havoc and legal quagmire of deauthorization; and we should make no decision to change the status of the project until all the facts are in.

Again, Mr. Chairman, thank you for your concerns and for bringing your committee to Florida to consider a matter of paramount importance and consequence to my constituents, to all Florida residents, and to the nation.

Mr. Roe. Our first witness will be Col. Charles Myers of the Corps of Engineers, who will give us an overview of background and bring us up to date on where we are at.

Colonel Myers, are you ready? I want to welcome you to our hearing, Colonel Myers. If you would be kind enough to identify for the record your associate.

TESTIMONY OF COL. CHARLES T. MYERS III, DISTRICT ENGINEER, JACKSONVILLE DISTRICT, U.S. ARMY CORPS OF ENGINEERS, ACCOMPANIED BY SAM EISENBERG AND JIM GARLAND, CHIEF OF ENGINEERING, JACKSONVILLE DISTRICT

Colonel **Myers**. Yes, sir; on my right is Mr. Jim Garland, Chief of Engineering of the Jacksonville District, and on my left Mr. Sam Eisenberg, who has been long associated with the canal planning.

Sir, as you mentioned today, my purpose is to present a brief overview of the Cross-Florida Barge Canal. The Cross-Florida Barge Canal project was authorized in July 1942. The project would provide a barge waterway route between the St. Johns River at Palatka and the Gulf of Mexico at Yankeetown, a distance of about 110 miles.

The project would include three dams, five locks, and a channel 12 feet deep and 150 feet wide. Construction of the project was started in February 1964. The work was about one-third complete when terminated by the President of the United States on January 19, 1971. About 25 miles of channel, three of the five locks, three dams, and four bridges were completed.

The President ordered that further construction be halted to prevent potential serious environmental damage. Approximately, $74 million had been invested in completed works and lands, and in 1977, an additional estimated $250 million was needed to complete the construction of the project.

A period of litigation followed. On January 31, 1974, Judge Harvey M. Johnson ruled in part that the President did not have authority to halt construction and directed that appropriate studies and reports, including an environmental impact statement, be prepared.

The $2½ million study effort conducted by the corps concluded with the filing of the final environmental impact statement with the court in February 1977. The studies included transportation economics, engineering designs, cost estimates, in addition to detailed environmental investigations.

When the final reports were submitted in 1977, the Chief of Engineers concluded the following:

First, that construction of the canal is feasible from an engineering standpoint.

Second, that the economic justification must be considered marginal until such time as significant transportation savings and regional economic development benefits can be clearly supported in excess of their associated costs.

And last, that the adverse environmental impacts are not so severe as to demand a decision against completion of the project, if it were economically justified by an ample margin.

The combined total effect does not favor completion. He recommended that all activities leading toward completion of the project be terminated, and that a supplemental study be undertaken in cooperation with other Federal agencies and the State of Florida to determine the best disposition and use of the canal facilities and lands, and that the corps continue to operate the completed canal facilities pending further congressional action.

On July 28, 1978 and April 11, 1979, the Secretaries of Army and Agriculture forwarded draft legislation to the Congress that would deauthorize the project, provide for restoration of the Oklawaha River and disposition of other lands and facilities outside the Oklawaha River area, and authorized study of the Oklawaha River for potential addition to the National Wild and Scenic River system. No final action was taken by the Congress on these proposals.

The 1974 Federal court order prohibits the Corps of Engineers from performing any work of construction or alteration to the barge canal right of way. This limits the corps in its activities in this area to maintenance work only, on the structures which have already been constructed, such as Rodman Dam, and any exceptions from this order have to be specially applied for by application to the district court for relief from the injunction.

Fiscal year 1985 funds received were $1,543,000 to operate and maintain the project. These funds are to operate and maintain three locks, three dams, and two reservoirs; operate and maintain four recreation areas; water control management and water quality surveys, and to maintain canal slopes and bermes.

Repairs to the H.H. Buckman lock gates are currently being performed by contract. There are 23 full-time permanent employees stationed at Palatka who perform the routine operation and maintenance.

In calendar year 1984, there were 479,700 visitors to Lake Oklawaha. There are two to three bass tournaments held each year and the National Bass Association holds one of their major tournaments on the project each year.

Advisory language contained in the House Appropriations Report on the 1982 Supplemental Appropriations Act included an item directing the Corps of Engineers to update and expand in specific areas its 1977 economic analysis, at a cost of $450,000 within available funds. A plan of study for this effort was completed and approved by the Assistant Secretary of the Army for Civil Works in November 1984. The Jacksonville district was directed to accomplish an economic restudy at a cost of $230,000, with the hope of resolving economic uncertainties relating to specific areas of the project analysis. The study includes a determination of transportation economics for movement of coal via the canal, an estimate of regional economic development benefits, area redevelopment benefits and contingency benefits.

In addition, an update of project costs will be accomplished. The coal study is underway by a contractor, Robert Nathan Associates, and work on the project cost is underway in the district.

About July, we will initiate the Regional Economic Development Benefit Analysis and the final report on this limited economic restudy is scheduled for completion by the district in December of this year.

Throughout the economic restudy effort, there has been and will continue to be coordination with the State and other interested parties, and in fact, the study schedule has built in coordination steps with the interested parties.

Sir, that concludes my statement.

Mr. Roe. I thank the Colonel for his background statement.

Let me ask a couple of questions because I want to get these questions started so that both the Corps and today's witnesses will have a chance to respond.

I know there has been a plethora of studies that have taken place. Let me ask you two questions. Has there been any in-depth study made as far as the potential water resources of this system for the northern part of Florida?

Colonel Myers. There has been no overall study as to the water budget of northern Florida. There was a study made in the 1977 overall study which addressed the water budget for the canal itself.

Mr. Roe. I am thinking about the integrity of the system and the development of Lake Oklawaha. [Laughter.]

You can laugh. We have a few names in New Jersey I cannot spell either. [Laughter.]

Mr. Shaw. Oklawaha.

Mr. Roe. OK. We will have it right before the day is out—Oklawaha.

What I am trying to get at is that the U.S. Government has acquired from the State of Florida some vast lands across the State of Florida from Yankeetown to Jacksonville, ostensibly for the purpose of building the Cross-Florida Barge Canal. What I am trying to get at is has there been any in-depth review, knowing the water problems—I know from my own State's point of view—and I know there are some problems here in the great State of Florida too—has any attention been given to the integrity and the import of the program as it has been designed, for its potential water supply use for northern Florida?

Colonel Myers. No, sir; I am aware of no such study.

Mr. Roe. You are not aware of such a study that has been made?

The second thing that I would like to ask, since the integrity of the program seems to indicate that there are some hydropower development potentials; have we looked into the hydro development potential yet, as to the existing facilities?

Colonel Myers. Yes, sir; we do not have studies on that. There are a couple of applicants on both this end and the western end for Federal Energy Regulatory Commission permits, but there is nothing underway at this time beyond that.

Mr. Roe. So we are short a little information in those two areas.

Colonel Myers. Yes, sir.

Mr. Roe. Are there any questions, gentlemen?

Mr. Stangeland. Just one—maybe one or two. When you speak, on page two of your testimony, about contingency benefits, what kind of contingency benefits will be looked at in that study?

Colonel Myers. Sir, I would like to have Mr. Eisenberg address that if he would. Would you address contingency benefits?

Mr. Eisenberg. I am not sure, there, sir. I believe there was a potential for additional transportation benefits that maybe were not covered in the initial study.

Mr. Roe. Thank you.

Mr. **MacKay**. I just would like to ask Colonel Myers, you are familiar with the Faulkner Study, which was a U.S. Geological Survey hydrologic study in the early 1970's?

Colonel **Myers**. Yes, sir.

Mr. **MacKay**. Do you evaluate that as stating that there is significant environmental risk?

Colonel **Myers**. Sir, I think the Corps position on the environmental risk is as stated by General Morris, that it did not outweigh the possibility of building the canal if in fact there were economic benefits.

Mr. **MacKay**. My question had to do more with the earlier questions of whether you were aware of studies that had to do with the integrity of the water, underground water.

Colonel **Myers**. Yes, sir, our people who did—I was not in the District, as you are aware, during the time of the study. Mr. Eisenberg was closely associated with it and is aware of that and that study was considered.

Mr. **MacKay**. Thank you, Mr. Chairman.

Mr. **Roe**. Let me just conclude, if I may, Colonel. As we inspected the canal facilities yesterday, there is an integrity on the St. Johns River, as I see it, that comes up to the canal and connects into the Oklawaha Lake, and there is a dynamic involved there. I understand there is some freight or some port work that goes on from Palatka down the St. Johns River. We looked at that particular operation.

Colonel **Myers**. Yes, sir; there is a Federal project from Palatka to the mouth of the St. Johns River at the Port of Jacksonville.

Mr. **Roe**. OK. So there is an integrity of that operation even from the recreational point of getting into the lake?

Colonel **Myers**. Yes, sir; the connection for recreational boating between the St. Johns River and Lake Oklawaha and into the Oklawaha River would be through that lock.

Mr. **Roe**. Which you maintain and operate?

Colonel **Myers**. Yes, sir.

Mr. **Roe**. And also there is some integrity as far as the operation is concerned from the westerly side from Yankeetown up to that next lock, in that particular area, that is a dynamic that is operated now?

Colonel **Myers**. Yes, sir; that is correct.

Mr. **Roe**. OK, I have no further questions. Are there any other questions?

[No response.]

Mr. **Roe**. I want to thank you very much for your background data. We appreciate it and we will be looking forward to discussing it with you further.

Colonel **Myers**. Thank you.

Mr. **Roe**. Our next witness will be the distinguished U.S. Senator, the Honorable Lawton Chiles, who is one of our great Senators. Senator, we want to welcome you to our hearings.

Mr. **Stangeland**. I just want to join you in welcoming the Senator to this hearing and tell him that the hospitality of the great State of Florida has been superb, and we really appreciate it.

Mr. **Roe**. We do not know how that will be at the end of the day, but as of now——

TESTIMONY OF HON. LAWTON CHILES, U.S. SENATOR FROM THE STATE OF FLORIDA

Senator CHILES. I thank you very much, Mr. Chairman and Mr. Vice Chairman, we are delighted to have you all in the State of Florida and have you take the time of the committee to come down here. We are delighted and I am happy to hear of the warm welcome that you have received. I trust that that will continue through the day.

I am pleased to be here today to lend support to efforts to deauthorize the Cross-Florida Barge Canal. I am hopeful that this hearing will convince the members of the committee to recommend deauthorizing legislation as part of the Omnibus Water Resources Legislation Act which is presently before the committee.

The issues surrounding the fate of the Cross-Florida Barge Canal are as numerous as they are complex. There certainly are those who question the need for deauthorizing the canal. Some maintain that someday the canal project will be viable; others argue that it is better to leave the project on the books and the problems surrounding the canal can be solved by merely denying any funding for the completion of the canal. I disagree.

I believe that Congress needs to deauthorize the Cross-Florida Barge Canal and I am pleased today that you will be hearing from the Governor of the State, the attorney general, and other public officials who can testify to the need for action to deauthorize this project.

I believe the testimony that you receive today will provide sufficient argument for deauthorization. I am a sponsor of legislation in the Senate to accomplish deauthorization of the Cross-Florida Barge Canal. This bill is a companion measure to legislation introduced in the House of Representatives by Congressman MacKay and Congressman Shaw and five other members of the Florida congressional delegation.

The issue of the barge canal is not a new one to the Senate. My colleagues in the Senate have voted twice to deauthorize the canal. Until last year, however, there was reluctance on the part of the House to deal with this issue.

Last summer, of course, as we know, Congressmen MacKay and Shaw were able to bring the matter to the attention of the House in an amendment to the omnibus water resources bill. That effort was unsuccessful, but I think the debate on the House floor built momentum, and now the committee has come down to actually get firsthand information on the issue here.

I will not go into the long detailed history of the project, its equally lengthy history of controversy, as I know you will be receiving excellent testimony on those matters throughout the morning.

I do want to make two points of why I feel it is important to move forward to deauthorize the project. I believe it is in the State of Florida's best interests to have this project deauthorized. I believe by deauthorizing this project, the Federal Government can send a strong signal to the country that it is serious about limiting the investment of Federal dollars to those water development projects which are cost effective and which enjoy wide public support. The Cross-Florida Barge Canal, I think, can meet neither of those tests.

The State of Florida has not supported the Cross-Florida Barge Canal since 1977. In that year, the Governor and the Florida cabinet withdrew the State's official support for the project and recommended against its completion. President Carter, in his environmental message of May 23, 1977, called for termination of the barge canal project and in the same year, the U.S. Corps of Engineers concluded that completion of the canal was not warranted.

Additionally, the U.S. Department of Agriculture, the U.S. Department of Interior and the Environmental Protection Agency and the Council of Environmental Quality recommended that action be initiated to obtain deauthorization of the project.

The State of Florida took a further step in 1979, to demonstrate its opposition to the project. In that year, the Florida Legislature enacted legislation to abolish the Florida Canal Authority and to transfer its operations to the department of natural resources. State legislation also provided the mechanism for disposing of State-held canal property and the return of tax moneys to the six counties along the canal route, if and when Congress enacts deauthorizing legislation.

Last year, however, when the House of Representatives was debating the deauthorizing legislation, suggestions were made indicating that the State of Florida had not really requested deauthorization. While I believe the action taken by the legislature in 1979 clearly indicated the State's position on completion of the canal, the legislature more strongly stated its position earlier this year by passing a memorial to Congress urging the enactment of deauthorizing legislation. Now, no question can remain as to the State's position in this matter.

The State of Florida wants Congress to deauthorize the Florida Canal Barge project. In the absence of deauthorizing legislation, the statutory authority for the future construction of the canal still exists. Thus, the State is left in the position of not being able to sell the lands it acquired for canal purposes. These lands could, if the project were deauthorized, be available for public purchase for the purpose of expanding the Ocala National Forest, be offered to surrounding counties for continued public use and be maintained by the State for purposes of recreation and conservation, or be offered for sale at fair market value. Indeed, these lands are now held in limbo and the potential for resuming construction of the canal still hangs over the head of the State of Florida.

I am sure Attorney General Jim Smith will comment more completely on the legal implications of not deauthorizing the canal.

Congress first began investigating the need to deauthorize the Cross-Florida Barge Canal in 1977. Since that time, legislative proposals to accomplish deauthorization have been revised and modified to accomplish deauthorization to respond to various issues relating to canal lands and properties, relevant litigation and important input from State and local governments.

Congressman MacKay will no doubt be summarizing the positions of our legislation. However, I have indicated before and I continue to emphasize that I am not bound by any one specific proposal. I feel that the canal should be deauthorized but I am flexible in terms of considering whatever changes may become necessary in fine-tuning the legislation.

Mr. Chairman, I understand the position that this subcommittee finds itself. Having served in the Florida Legislature, I know that the thing we hated worst of all was when there would be a local bill controversy from a county, from a portion of the State. You find yourselves in that position, it is sort of like a local bill controversy when you have a split in the congressional delegation.

People that I respect tremendously in the Congress take the other side of this issue. They feel very strongly about their position and they have fought very hard to maintain their position. People that are not in the Congress that are in some of our communities that I consider community leaders and many friends and outstanding people in the State of Florida also take the opposite position and feel very strongly that the canal should be built.

This controversy has been going long before as to whether we should have a barge canal in Florida—as perhaps you all know, long before this barge canal. I find one of my ancestors was an engineer for the Corps of Engineers, he was a half-brother of my father, and he worked for the corps and he wrote a report about the need for a Cross-Florida Barge Canal, sea level canal at that time, and if you flew yesterday maybe Buddy could show you some of the remains of what was to be a sea level canal during the administration of Franklin Delano Roosevelt. So this controversy has continued for a long time. As I say, there are strong advocates on both sides.

How does the subcommittee find itself, or the committee, in trying to make a decision like this? I think basically one of the things that you have to ask is what does the State of Florida want in this regard, and while we cannot have a poll of the State of Florida because we do not have that form of government, we have a representative government—but if you look at that representative government you will see that two Governors over the last 16 years, two State cabinets over that period of time, and the legislature very clearly, and as strong as it can say, has in effect said, we want the canal to be deauthorized.

So the government in-hand in the State of Florida has basically said in spite of the good points that have been raised by every side in this issue, and arguments that can be made, the State of Florida I think has placed itself strongly on record as saying this is a canal that we feel should not be built and should not be authorized and I ask you to look at that as you consider all of the testimony.

Again, we thank you for your attendance here and for your consideration of this issue.

Mr. Roe. Well I thank you, Senator. [Applause.]

That does not happen too much at our hearings. I want you to know that.

Senator Chiles. You will hear that from people who will take the other side. They will have their applause too.

Mr. Roe. We recognize that. Let me say for the benefit of the good folks that are here that you have and you have pretty well expressed some of the concerns, if you like, of the committee. The committee made it very clear, both in its own deliberations and also on the floor of the House, that it is very difficult for those of us fellow citizens from other areas of the Nation to be deciding an issue in a particular State, and we recognize the differences of opinion. And one of the major reasons we came down here was at the behest of both Buddy MacKay and Clay Shaw, to get a first-hand view and have a chance to commiserate and review with the folks that are involved.

I might want to leave you with a thought, however, which I think would be helpful at this point. The committee is highly knowledgeable because they have done a great deal of research individually, jointly and severally on this entire situation. That is why I asked the corps if there had been any indepth review of the potential water resources that are available here that could be utilized in an ongoing project, and the hydropower aspect of it and our basic concern for water resources throughout the Nation.

I think that has to be looked into further. Also, I think the point of view that here in the year of our Lord 1985, we have a great swath of open space, highly sensitive environmental lands located across the whole northern part of Florida, which are a great asset. And I am not talking about the point of necessarily building the canal or anything of that nature. I am talking about the point of view that it is there and it is held in public ownership. One of the concerns of the committee as it goes into its deliberation is to try to retain and maintain some type of that integrity, so that land is not just all caught up and sold off for different purposes like development, which would destroy, in our judgment, a part of the potential use of the development of the water resources.

You were very flexible when you said that while you are not necessarily married to any specific solution, your major concern was to get the project deauthorized. So I appreciate that flexibility in your approach.

Senator **Chiles**. Thank you, Mr. Chairman. When I was running the first time, or walking the first time, for the United States Senate, the canal controversy was just brewing at that time. This was one leg that—I prided myself that I walked the entire way across the State of Florida, but I have to say the one leg I did not walk is where I got in a boat and traversed part of the canal down to Blackman, that was a portion that I did not walk. And at that time, the great concern of the community and the populace here was on the aquifer and the water recharge situation, of course, from Silver Springs, which generates much of the water for the Oklawaha. There is a tremendous concern, and there was at that time, and there were changes made even where the route of the canal would go, not continue to tear up the river as we did before we knew much about how we should save a beautiful wild river like the part of the Oklawaha we tore up.

But there certainly have been and continue to be concerns as to whether whatever you do to complete the canal, whether you do something that could allow pollution to go into the aquifer, which we find that this is a tremendous water recharge area from the springs that start at Silver Springs and go to Dunnellon to Weeki Wachee, on through a water system, a fault system that comes across this area. And that water more goes to south Florida and central Florida than goes to north Florida, but it is still of tremendous concern to this State to keep the water quality and the purity of that water is tremendously important.

Mr. **Roe**. The gentleman from Minnesota.

Mr. **Stangeland**. I have no questions, Mr. Chairman. I just commend the Senator on his stand and his forthrightness. The old saying among politicians, "my friends are on this side, my friends are on that side, and we are for our friends", and that is somewhat the dilemma we find ourselves.

Senator **Chiles**. I am sure that you do, and that is a dilemma that we regret because we know that it places you in that kind of position. We find that we regret that dilemma very much ourselves.

Mr. **Roe**. Are there any further questions, gentlemen?

Mr. **Shaw**. I would like to, Senator, congratulate you not only on your statement this morning, but the good work that you have been doing on this particular issue since you have been in the Congress. You have certainly taken leadership in the Senate in bringing this about. I hope Congressman MacKay with a little help from me and a few others from the Florida delegation, enjoys that same success and we will find that the canal will be deauthorized.

The question that you just brought up in your closing remarks as to discharge and the effect on the aquifer is something that makes this an issue that is very important to us in south Florida as well as in this particular issue.

I know you are busy, being a ranking member—Democratic member on the Budget Committee right now, I certainly wish you well in your negotiations with our colleagues from the House in bringing about what will be a sensible budget for the U.S. Government. I think I am a little bit more optimistic about deauthorization of the canal than I am a sensible budget at this particular time; however, you are an excellent voice in that area too and I commend you for the work that you are doing on the budget as well as the work you are doing for deauthorization.

And you heard that from a Republican.

Senator **Chiles**. Thank you.

Mr. **Roe**. We recorded that too. [Laughter.]

Senator, we want to thank you very much, you have been very helpful to us and we appreciate you being with us.

Senator **Chiles**. Thank you.

Mr. **Roe**. Our next witness is the Honorable Bob Graham, who is the Governor of Florida, and with him—I do not think all your folks are here, Governor—we had listed Jim Smith, attorney general, Victoria Tschinkel, secretary, Florida Department of Environmental Regulation and the Honorable Jon Mills, majority leader of the Florida House of Representatives and speaker of the House.

Are those good folks here?

Ms. **Tschinkel**. Ms. Tschinkel is here.

Mr. **MacKay**. Mr. Chairman, I understand that Jon Mills will not be here. Chris Meffert, who is the State representative from Marion County is here and with the Chair's leave, I ask that he be substituted for Jon Mills.

Mr. **Roe**. He would join us here?

Mr. **Shaw**. Mr. Chairman, I believe Jim Smith is going to be coming up from Fort Lauderdale, he will be flying into this area and will appear at the hearing later.

Mr. **Roe**. We will hear from him when he appears.

We want to welcome you all to our hearing. Governor, we will hear from you so you can move along. I know you are in a hurry.

TESTIMONY OF HON. BOB GRAHAM, GOVERNOR OF THE STATE OF FLORIDA, VICTORIA TSCHINKEL, SECRETARY, DEPARTMENT OF ENVIRONMENTAL REGULATION, CHRISTIAN MEFFERT, STATE REPRESENTATIVE, MARION COUNTY, FL, AND DR. ELDON GESSENDANNER, EXECUTIVE DIRECTOR, DEPARTMENT OF NATURAL RESOURCES

Governor **Graham**. Mr. Chairman, thank you very much. We very much appreciate you and other members of the subcommittee being with us today and joined by your colleagues from the Florida delegation.

You yesterday had an opportunity to see a beautiful piece of our State, which I think will assist you in understanding the complexity and frankly some of the emotion that surrounds this issue.

As Senator Chiles said, this is an issue which goes deep into the history of our State. It is an issue which has been a source of controversy and division for as long as it has been considered in our State. I hope that one of the results of the hearing today and the action which the Congress will be taking, will be to take some definitive action.

My purpose today is to make essentially two points; No. 1, what is the official position of the State of Florida on this matter and No. 2, why we believe it is important for the Congress to make a decision rather than to continue to allow this subject to linger in a limbo status.

First, I wish to extend a welcome to you who are visiting our state. We are very proud of our State and of its natural environment which makes us such an attractive place in which to live.

We also wish to express our gratitude to Members of the U.S. Congress for the $500 million in civil works which you have appropriated to our state over the past 5 years. This level of expenditure is a significant contribution to our plans to deal with the costs of growth.

Florida is among America's fastest growing States. We are adding to our population almost 800 people every day. We have many needs; new roads, teachers, bridges, schools, mass transit, water and sewer lines. But there is one thing which we do not count among our inventory of needs, and that is the Cross-Florida Barge Canal. [Laughter.]

I do not mean to make you feel unwelcome by using excessively clear language, but we wish to make it clear what is the position of the State of Florida. The position of the State of Florida is that we do not want the Cross-Florida Barge Canal.

We will make available for purposes of the record a complete set of documents related to our unwavering opposition, but let me briefly review some of the highlights.

President Nixon terminated all work on the project in 1971, or so we thought. In 1972, the Governor and the cabinet suspended support for the project, pending completion of economic and environmental impact studies.

In 1976, a definitive review and analysis found no reason to continue the project, and abundant reasons to cancel it.

On January 17, 1977, the Governor and cabinet of Florida adopted a resolution requesting deauthorization.

On August 3, 1983, the Governor and cabinet adopted another such resolution requesting deauthorization.

On May 16, 1985, the Florida Legislature passed a memorial to the U.S. Congress requesting deauthorization.

Lest you think that the public and legislative sentiment is anything less than overwhelming on this point, the margin by which that memorial passed the Florida House of Representatives was 105 to 5. In the Florida Senate, the vote was 33 to 3.

One argument that we hear frequently is that since the project has been dormant for so long, there is no need to deauthorize. There are compelling reasons to deauthorize. As the theologian Harvey Cox expressed, "not to decide is to decide." And a decision not to deauthorize the barge canal has significant negative consequences.

If we decide to drift along in our present position, we will continue to waste public resources on studies and hearings such as this one, endlessly debating the fate of this project. We can deauthorize it and save the money to apply toward the Federal deficit.

[Applause.]

Governor **Graham**. Second, at this point, a mere appropriation of funds can actually trigger construction at any time. This is a critical point. We must end this threat once and for all by deauthorization. It is time to put an end to the present precarious state of affairs.

Third, deauthorization will permit us to identify sensible and productive uses for the land now tied up in this misbegotten project. Today, all efforts to expand the Ocala National Forest, to construct a veterans' cemetery, or to construct a small hydroelectric dam on Lake Rousseau have been shelved, pending deauthorization. Advocates of these and other potentially valuable projects should be given an opportunity to make their case—an opportunity which deauthorization will provide.

Fourth, there is a significant legal issue to be resolved. As part of this unwanted barge canal project, the state has obtained easements to 7,767 acres of private land in the vicinity of Lake Oklawaha. If we remain mired in indecision and the courts continue to hold, as they have, that Federal action to date constitutes abandonment, we run the risk of losing our easements on these nonflooded 7,767 acres.

If the project is deauthorized and the land is designed for another public purpose, which is no more restrictive upon the land than its current designation, our easements will be protected.

In short, we must make a decision and that decision should be a resounding vote to deauthorize this project that the people of Florida have said so often, so overwhelmingly, that they do not want.

We are unable to document a single case in which the Corps of Engineers has continued to pursue a project in which the State affected has rejected.

In the State of Minnesota, Congressman Stangeland, there is no project in which the Congress seeks to override the will of the people of Minnesota.

In the State of New Jersey, Congressman Roe, there is no project in which the Congress seeks to override the will of the people of your State.

All we are saying is, we do not want this project. You are not building it now, deauthorize it and terminate it once and for all.

With all appropriate respect, how many times do we have to say no? How many ways are there to express the position of the State of Florida? Please take our answer—no—we do not want the barge canal, it is not under construction and the public and their representatives in this State oppose it.

It is time to deauthorize the barge canal and turn our attention to more productive activities.

Deauthorize the barge canal, Congressmen, and do it now. Thank you. [Applause.]

Mr. ROE. We want to thank you very much, Governor, for your presentation and your obviously firm conviction.

Are there any questions of the Governor?

Mr. STANGELAND. Yes, Mr. Chairman. Have you considered, Governor, that if we deauthorize it means that we no longer have a Federal project and at that point in time then the Corps of Engineers' presence is withdrawn from the area? We have got a couple of locks to operate, a couple of locks to maintain, dams to maintain. Is it Florida's contention that Florida will take over the management of that segment of the project and continue to operate the recreational aspects of it?

Governor GRAHAM. Mr. Congressman, if that is part of the conclusion of this project; yes, we would accept those responsibilities. We believe, as the chairman has expressed, that it is important to maintain the land in public ownership because it has many important public purposes to be served. As the Congressman has expressed, we have created a linear park across the State of Florida in the course of pursuing this project and that could be a valuable legacy of this project. Issues of how to maintain existing facilities, uses to which the land would be put are the exact subjects of the legislation which the Congressman has introduced and as Senator Chiles expressed, we would be accommodating to work with you and with the other Members of Congress to resolve those details which are the happy consequence of the affirmative decision to deauthorize.

Mr. ROE. Will the gentleman yield?

Mr. STANGELAND. I will be happy to yield.

Mr. ROE. Governor, do I understand you to be saying that you are still flexible on the point of view of how the ultimate project is worked out in the public good. Is your specific point to deauthorize it to be able to allow these other possible actions to take place?

Governor GRAHAM. And to terminate some of the threats that are expressed. We have had State courts which have held that because there has been no action on this project for now almost 15 years, that there has been effectively an abandonment, and that in the face of an abandonment without an alternative use of the land stipulated, that where the easements did not provide otherwise, that they have lapsed back to the original landowners. And we have lost the public investment that was made in the acquisition of those easements.

We are concerned that continued indecision, continued failure to state what the alternative public purpose will be, places us in jeopardy of having more of our investment lost.

Mr. ROE. I want to pursue that further, Mr. Stangeland.

Mr. STANGELAND. Well, did the Florida Supreme Court ruling that said that in case the project does not continue on, that the lands in fee do not revert to the original landowner, or the original landowner has no right to come in and sue for loss of that property because the project is no longer viable. Does that supreme court ruling not also address the question of easements on lands and those easements are still there and legitimate and cannot be called back by the original landowners? So your easements are really not in jeopardy if the Supreme Court ruling covered easements as well as land in fee title.

Governor GRAHAM. Unfortunately it does not. The Supreme Court opinion deals with fee simple title to property. Our attorney general, who will join us later today, will discuss this in more detail, but there have been cases which have not been overturned at the appellate level dealing with easements, as distinct from fee simple title, which the court has held that the law of easement in this state is that if there has been an abandonment of the purpose for which the easement was acquired and there has been no alternative public use of that easement prescribed, which use can be no more onerous on the landowner than the purpose for which the easement was originally acquired, that there is abandonment of the public easement and the land reverts back to the original owner or his successor in title, unrestricted.

We have had examples of that occur. That is one of the consequences of indecision as to the future of this project and the future of the land which was acquired through easement to advance the project.

Mr. STANGELAND. How much interest has been expressed toward some of the property that has been set aside or acquired for the purpose of building the canal—how much interest has been expressed in that property by private developers who would like to now purchase that land that was initially purchased by the sea canal interests or by later interests for the barge canal at a very low cost and with the escallating value of property in Florida, how much interest have private developers expressed?

Governor GRAHAM. The answer is I do not personally know what specific interest has been expressed by private groups in the acquisition of land which is currently held by the canal authority, possibly some of the people who are here—Representative Meffert represents, in the Florida House of Representatives, the area including Ocala which is also represented by Congressman MacKay, which represents a substantial portion of the barge canal property.

Mr. ROE. If the gentleman would yield for a moment, I think it might be profitable at this point to suspend further questioning of the Governor at this point and ask the other witnesses to make their presentations. It might bring it together and then we can have a series of questions that relate. Is that satisfactory to you?

Mr. **Stangeland.** Yes, Mr. Chairman.

Mr. **Roe.** Let us call on Ms. Tschinkel.

Ms. **Tschinkel.** Mr. Chairman, I do not know, this is on a little bit of a different topic—I am secretary of Florida's Department of Environmental Regulation, and my purpose here—the Governor asked me to bring you up to date on some changes in Florida's laws and regulations concerning the environment since about 1981.

First of all, Florida has the strongest ground water protection program in the country. That is because 95 percent of our people rely on ground water for their drinking water supply. Unfortunately, because of our high water table and sandy soil, the aquifers are very easily contaminated. We even regulate, in the State of Florida, such discharges to ground water as swimming pool drainage wells at this time.

The barge canal that is proposed would cut through about 28 miles of the Floridan aquifer, allowing about 40 million gallons a day water to exchange between the surface and the ground water. One gallon of gasoline, as you probably know, can contaminate 1 million gallons of drinking water, and we are extremely concerned about potential contamination to the aquifers.

Over the last several years there have been three major legislative and regulation changes in the State that would have an impact on the barge canal the way the State of Florida would look at it.

First of all, under Governor Graham's direction, we adopted a State water policy which directs the State to manage its surface waters for the conservation and protection of Florida's natural resources and scenic beauty. It specifically discourages channelization or other alteration of natural rivers, streams, and lakes. And last year—last month, Florida's Legislature specifically adopted that in the State's comprehensive plan recently passed by them.

In addition, in 1984, the legislature passed the Wetlands Protection Act, which improved the State's ability to manage Florida's wetland systems, both for the protection of water quality and the fish and wildlife.

The department is now engaged in adopting new regulations for protection of our wetlands areas in the State of Florida.

This year also, the legislature passed a new Save Our Rivers Program, which is going to allow the State of Florida up to about three quarters of a billion dollars in bonds between now and 1995 for the sole purpose of protecting our floodplain, our water recharge areas and our water supply areas.

Also, as you probably know from public works testimony before, the State is spending hundreds of millions of dollars for the specific purpose to clean up and put back projects that have gone wrong in the past. For example, the St. Johns' River Water Management District is currently planning on spending $276 million, including $87 million in Federal funds, to restore the upper St. Johns' River in this part of the State. The South Florida Water Management District is spending $41 million on land acquisition in a demonstration project with the hopes of restoring some of the values of the Kissimmee River Valley.

Yet, the proposed authorized alternative would have $400 million to be spent on a project that will convert the high quality, free flowing Oklawaha River, which now meets State water quality standards for recreation and the propagation and management of fish and wildlife, into a low quality impoundment in violation of standards set to preserve and enhance their beneficial uses.

Miles of river floodplains all could be lost and 20 additional miles of the Oklawaha River could be permanently channelized. This is completely different from every other project that we are trying to do in the State of Florida today.

The State's five water management districts regulate consumptive use of water to protect water resources and, Mr. Chairman, you have expressed interest in that. For example, the Southwest Florida Water Management District in this State requires permits for users above 100,000 gallons per day.

Yet, by the department's estimate, using USGS figures, the barge canal would consume between 50 and 70 million gallons a day of fresh water resources, which the State cannot afford to lose. To put this in perspective, this figure comes close to the amount of water being used by the fourth largest county in the State of Florida, Hillsborough County, where Tampa is located.

We doubt very seriously that the economic restudy will bring to light any new information that will change our position. Regarding the economics of coal transportation, several cost effective competing modes of transportation already exist to deliver coal to existing and proposed coal-fired power plants in Florida. And there is no evidence that the barge canal would be a cost-effective alternative, particularly considering the fact that the State of Florida has been supportive of a coal slurry pipeline for a number of years.

I hope that brings you up to date on some of the things we have been trying to do to protect Florida's environment.

Mr. **Roe.** Mr. Meffert.

Mr. **Meffert.** Mr. Chairman, members of the committee, I too appreciate the fact that you would take the time to come down here and see actually where we are, what has been built and what has not been built on this project. I think you will find, as I do when I have seen something, it is easier when I am considering it later on. I am kind of a last-minute pinch hitter, so I will be brief and try not to reiterate some of the things the Senator, the Governor, and Ms. Tschinkel and others have said or will say.

I can tell you that virtually all of the unfinished part of the project is in the county I represent, Marion County. The concerns of the people in my district have always been with the ground water and the aquifer, I think. The positive aspects of the canal project that has been alluded to earlier is that portion that is completed and the vast recreational aspects of Lake Oklawaha and some of the other portions of the project, that the people in my county I believe would like to see retained, and I believe provision was made for that in Congressman MacKay's deauthorization plan.

The other aspect, to go as far as some of your questions, Mr. Chairman, about the studies—Florida has a mechanism and has long had a mechanism for an orderly and sound process of examining the lands in the canal ownership once deauthorization occurs. We have not done studies seriatim because of the questions about deauthorization and when and if it is going to occur.

But deauthorization itself triggers a study in a State law authored by Congressman MacKay when he was in the legislature, that provides an orderly study of what uses can be made of those lands in the public ownership and what benefits to the public would result. It also then finds that those lands that are surplus that would not be advisable to be retained for use in the public ownership, the method whereby those would be sold.

And, Mr. Stangeland, I think your question as to developers expressing interest, at this point they are very much aware of the process. The priority I believe in the deauthorization bill in the Congress is that the counties would have the first option to purchase those lands at the appraised market value. Then priority goes through the original owners, the heirs or devisees of the original owners down through several steps; long-term leaseholders—before any of the general public would be passed those options. So we believe that is very orderly and also fair to those people who had their land taken for a project that is not to be built.

The other aspects—all aspects of water resources and those things would be done in this study that would take 1 year from the date of deauthorization. So that the mechanism is there to deauthorize orderly and of course Congressman MacKay, having been aware of much of this, has tried to dovetail his deauthorization plan with that existing law that is here in Florida and has been I think since 1977.

Mr. Roe. Again, let me thank you both for your testimony. Let me keep in mind one point of view, that one of the major concerns of other than Florida Representatives is based upon the point of view that there has already been an expenditure of $70 million or thereabouts by taxpayers. And as the good Governor has pointed out, I think very well, the protection of this vast swath of open space across—in our judgment—across the State of Florida, is a terribly valuable asset that should not be plundered. That is a very strong word, but it is a word that I think I have to say. Above and beyond the Florida interest, there is a national interest in this project and we are not that far afield from what Florida is trying to do.

One of the major concerns that many members have is that the simple methodology of deauthorization can work great violence to what you are trying to attain unless it is conditioned on certain particular requirements in the interest of the State of Florida and in the interest of the Federal Government. I mean if one moved in the direction of simply deauthorizing, that could trigger in many judgments all kinds of legal entanglements, and so forth.

It seems to me though that you are now developing a direction, as the Governor and Ms. Tschinkel and yourself pointed out that the interest of Florida is to retain the integrity of that system until further well-studied thought process can be developed, so that we do not lose the advantage. In candor, we do not want realtors coming in and just plundering this land and saying, OK, switch it off here, switch it off there, and you could never put it together again.

Do you understand what I am saying?

Mr. **Meffert**. Yes, sir. But I think that the safeguards are there or could be there. I would indicate to you the same flexibility that Senator Chiles indicated and I think Congressman MacKay has, is that the key issue is deauthorization. The manner of doing that, where we are allowed in Florida—my county's taxpayers paid many millions of dollars for the canal right-of-way, and those funds are conditioned on portions of these lands being returned. So that our objective I do not believe is that different, it is just that we see from where we sit that nothing can begin without deauthorization. Now the mechanics of doing that, to maintain what is in place certainly does need to be worked out, but the issue of the flurry of lawsuits—we are already in that in the State courts in Florida on these lands because of just what we continue to do, to study and study and study. Our folks are saying let us act because it is not the realtors now that are piecemealing it, it is the courts in this litigation.

So we are in that kind of box I think, that litigation is going to occur, deauthorization or no. We are experiencing it without deauthorization. We are saying let us do the best we can and cover those eventualities in the deauthorization bill, but deauthorize it.

Mr. **Roe**. The gentleman from Minnesota.

Mr. **Stangeland**. I do not have any—I have one more question, Mr. Meffert pretty well answered my questions.

I am not at all certain in my mind whether we in the Federal Congress should have a concern as to the disposition of lands that are not in part of where the project is built presently. We flew over and we saw a lot of lands that is virtually openland, it is a corridor in there. Whether or not a county goes in and buys that land—it has a high value, buys that land and in turn sells it off to private developers—I am not sure we ought to be concerned about that. I tend to think, with the chairman, that maybe we should be a little concerned about it, but maybe that is Florida's business and maybe that is the counties' business.

The only question I have, and I am not sure that this panel can answer it but I will be asking it as we go along; what does the canal authority receive in rentals in income from the lands that they are presently holding and not utilizing for canal construction purposes, but I am led to believe that there are lands that are being rented to other people to utilize in some fashion, and I am just wondering what the revenue generation of that rental is.

Governor **Graham**. Mr. Congressman, Dr. Eldon Gessendanner who is the executive director of the Department of Natural Resources which has supervisory responsibility for the canal authority is here, and he will be in a position to give you these specific numbers, but there is some income derived from the rental of this land, largely for agricultural purposes.

Mr. **Stangeland**. Fine, thank you.

Mr. **MacKay**. Mr. Chairman, if you want, it will not take but about 15 seconds, Dr. Gessendanner might be able to give you that information; otherwise——

Mr. **Roe**. Will he be testifying later?

Mr. **MacKay**. I do not think he is scheduled to testify.

Mr. **Roe**. Is the Doctor here? Could you give us that figure?

Dr. GESSENDANNER. It is $70,000 a year, which consists of agricultural leases and some billboard leases as well as some protective leases of people who have adjoining properties, leasing for minimal amounts to protect it.

Mr. ROE. So the average annual income is somewhere in the area of $70,000?

Dr. GESSENDANNER. Seventy thousand.

Mr. ROE. Mr. MacKay.

Mr. MACKAY. This is Dr. Eldon Gessendanner, who is the Secretary of Florida's Department of Natural Resources.

Mr. ROE. The gentleman from Florida.

Mr. SHAW. Thank you, Mr. Chairman. I am a little surprised to hear we are leasing out land for billboards. That is a subject of its own.

Governor, you got us to a point in your testimony where I was going to ask this question of Jim Smith when he gets here later on in the day; however, I would like to ask you because you seem pretty knowledgeable in this particular area.

You made a very good point; indecision is costing us money in legal fees, it is costing us land and it is putting in jeopardy what we have. And Mr. Meffert I think also echoed that in a very real manner. You talked about the problem of the easements. Now we are mainly concerned now about the land under Lake Oklawaha.

In that the land was taken for canal purposes, how would we go about to create a recreational use? Would we have to go back and get a modification of court orders, would we have to go back into court or can we do that by State statute or by changing the United States Code?

Governor GRAHAM. Mr. Congressman, I will answer the question, but the answer would have more validity coming from the attorney general or someone who has studied it in more depth.

It is my understanding that we have not lost any easements in the Lake Oklawaha area to date, so we do not have to go back and reverse prior defeats. We are concerned that as a result of court decisions in other areas which we think lays a similar legal question of abandonment without a prescribed alternative use of the land, that we may be vulnerable in this area.

So our position is that indecision continues a vulnerability and adds to the length of time which apparently was persuasive to the courts on the issue of abandonment, because they waited until it was over a 10-year period without any action before they said inaction constitutes abandonment. Now we add to that period of inaction and therefore make the argument for abandonment more persuasive. And the court said that in the absence of an alternative use which was no more onerous to the landowner for this easement property, than that for which the easement was originally acquired, the easement lapses and the land reverts back to the owner unrestricted.

I think that is just one other reason why it is important to make a decision relative to deauthorization, and within that decision to say "and here is the alternative public use to which the land will be put, which use is no more onerous than the original use which was the purpose of the acquisition of the easement," which was the canal itself.

It happens that most, if not all of the property that is the subject of our immediate concern in the Lake Oklawaha area is intended to be added to the Ocala National Forest for forestry and recreational purposes, which we would consider to be outstanding alternative use and consistent with the theory of a public purpose that was no more onerous than that originally intended.

Mr. **MEFFERT**. Mr. Chairman, if I could add to that.

Mr. **ROE**. Yes, sir.

Mr. **MEFFERT**. So far there has been a division, if you will, of lawsuits. The court has only ruled in that portion where there has not been construction, that there has been an abandonment. And there was some testimony, I am told, in one of the trials, the corps testified that even if it was built, there would have to be a shift in alignment of a mile, so the court ruled in at least one case because of the two issues, the abandonment and the corps testimony that even if the project was built the alignment would be changed, that these lands were outside of the proposed alignment, and therefore would revert back.

That case, as far as I understand, is pending on appeal, but all of the litigation has stemmed south of those portions where there has been construction. None of it has involved, to my knowledge at this point, none of it has involved Lake Oklawaha.

Mr. **SHAW**. Were the orders in the original taking—did they also include not only canal purposes but other recreational uses or was the order of taking——

Governor **GRAHAM**. I think the answer is, Mr. Congressman, it varied. There were some easements—and I am familiar with some that were in the Silver Springs—the Silver River area—which were very specific and the easement was only for the purpose of the barge canal. Whether those are salvageable or not I guess will be the source of further litigation. It has been represented to me that the easements that were the subject of the court case that Representative Meffert just referred to, and that the easements in the Lake Oklawaha area, were of a more generic nature and therefore raised the possibility of being diverted to an alternative no more onerous public use.

But the legal issues are going to have to be resolved almost on a case-by-case basis relative to these easements, depending on how limited or generic were the terms of the easement at the time of original acquisition.

Mr. **ROE**. Would the gentleman yield?

Mr. **SHAW**. Yes.

Mr. **ROE**. Depending upon how we craft any amendment that may solve that problem.

Mr. **SHAW**. I think that is very important and I would like to tell you, Governor, that this committee, the chairman and ranking members on the committee are—and those that are not here—will be very conscious of our concern as to the ownership of the land, and I think you have made your point very clear to us.

I liked your expression of "no decision can be a decision" and that would certainly be a very devastating decision and certainly one that would be totally against the overwhelming opinion and desire of the State of Florida and those that do believe there are State's rights still present in the United States feel very strongly that we certainly do not want to build something in a State that the State is so totally against, and I think the leadership that you have given and the leadership that Governor Askew gave before you, I think has made this extremely clear to us in Washington.

It is going to be of paramount importance that whatever we do, we do not jeopardize the ownership of the land. I think we are premature to decide what is going to be done with the land afterwards, but I think the important thing at this point is to be sure that the ownership does—is retained by the State of Florida or the Federal Government as the case may be, with deauthorization, so that afterward we can go forward and preserve those lands which are so vital, with what I believe was a bad decision to go forward with the canal, we are seeing a lot of possible benefits that might be very beneficial to the State of Florida if we cut our losses and this point and go forward with what we have, which is a real treasure.

Ms. Tschinkel, I want to thank you for bringing in the point as to the delicate balance that we have in our aquifer. This is of tremendous importance to all of us in Florida and we recognize how fragile our environment is.

Thank you, Mr. Chairman.

Mr. ROE. Mr. MacKay.

Mr. MACKAY. I just wanted to take a minute and I think it might be helpful. If the chairman and the committee decide to go forward with deauthorization, we have been working very closely with Florida's attorney general, and the legislation we drafted would incorporate the Lake Oklawaha area into the Ocala National Forest and would provide legal authority to the U.S. Forest Service to deal with the easement questions, to reacquire them if necessary but it would put us in the position to maintain that asset.

I am saying to you the deputy attorney general who has handled the litigation and who has worked with us, Mr. Louis Hubener is in the back of the room and I know I can volunteer his efforts to help the committee. He is very familiar with the litigation, he has represented the State in all the cases. So we can deal with that once the committee makes a decision.

Mr. SHAW. Would you yield just one second? I think that is important to also recognize that the litigation is coming, the litigation is here; the question is that we are now in a position of being indecisive and as an attorney, I would certainly want my client to at least have a position. At this point, there is no position, and that is the weakest way you can possibly go into court.

Mr. MACKAY. The State of Florida is in a pretty untenable position because it is trying to defend property that has been acquired under contract with the Federal Government and it is defending the other side as well, which really at this point has not stated a position.

Mr. Chairman, if I could do one other thing before the Governor leaves, because I think this will, before the day is out, be an essential question before the subcommittee.

Governor Graham, you indicated flexibility as to what happens. Is it fair to say that if the committee decides to deauthorize the canal, the State, from your standpoint, is willing to consider any option including keeping all the land in public ownership?

Governor **Graham**. Absolutely. We think that we have a public trust here, we have a beautiful linear part across our State and that we would be unfaithful to our responsibilities if we did not look at every opportunity to use that for the long-term public benefit. This crosses not only some of the most rapidly expanding areas in terms of population in the Nation, but within our own State, some of our fastest growing counties are the ones touched by this, including Ocala in Marion County, which is I think the fourth or fifth fastest growing metropolitan area in the United States. So there are great public needs for land for recreation and other purposes, which this property once the decision to deauthorize is made, could then be considered as a means of meeting those needs.

Mr. **Roe**. Well we want to thank you, Governor, Ms. Tschinkel and Mr. Meffert.

Let me just sum up the point so I understand what you are saying.

No. 1, the deauthorization is clear, whatever, form that takes.

No. 2, I think that all of our distinguished witnesses have brought about—and we are trying to develop that theme by the way, for the record—is that in spite of all of the controversy on the canal, the result is to be a potentially enormous valuable asset to the State of Florida if it is properly handled at this point that is, if people do not go off, you know, half-cocked in this direction and that direction, which is the purpose I of our visitation here.

The second thing is Mr. MacKay has developed is that as far as the State of Florida is concerned—and this is very important to get on the record—the integrity of the land mass, however the shading of ownership is, it is desirable to keep that in public ownership.

I think you have stated that quite well. What you are saying—so I do not get that wrong now—as chief executive of the State of Florida, is that the integrity of this land mass would be desirable to keep in continuity until all the decisions can be made.

Is that a fair comment to make?

Governor **Graham**. That is a fair comment, and I would only add that continued indecision will not advance the cause of any of those desirable end results.

Mr. **Roe**. Well if the gentleman will yield, it seems to be filtering through from some of our members that people are being dilatory, and I might respectfully suggest that we have worked for 2 years on this ourselves and we are not coming here out of hand and unknowledgeable.

Mr. **MacKay**. Mr. Chairman, excuse me for interrupting, but——

Mr. **Roe**. Just let me finish, please, sir.

I think that is important to say. And I think No. 2, that our mission is to go back and sift out the facts and get the best knowledge we can achieve from yourselves and your administration and also from the good citizens. I am sure there are some others with other ideas yet to be expressed.

But having said all of that, I want to make that point clear, that we have journeyed here to the great State of Florida in the greatest of respect and affection for its people in an attempt to arbitrate what is a very difficult decision in some people's minds to arbitrate.

What I am hoping to do on the record today is to get it point by point as specifically as we can at this juncture as to what the State of Florida sees so that we can properly reflect to our committee's colleagues from other States what is the true position of Florida. And I think you have done an excellent job in your presentation. That is all I want to say.

The gentleman from Florida.

Mr. MacKay. I ask your pardon for interrupting you. I wanted to say, and it should have been said at the outset, those of us frustrated about the delay in deauthorization are very critical about the lack of a decision, but in all fairness—and I would like to say this to everyone in this room—the delay does not come from Bob Roe or his subcommittee, and that ought to be made clear. The man has willingly stated to Mr. Shaw and myself that just as soon as possible he would be here and that before the issue came up again, he would have looked at it firsthand and I have to say we have been treated absolutely fairly and there is no delay on the part of the people in this room.

Mr. Roe. We are trying to help.

OK, no further questions, we want to thank you very much for being with us. You have contributed tremendously to our thought process. [Applause.]

[The prepared statements of the Hon. Bob Graham and the Hon. Victoria J. Tschinkel follows:]

Statement of Hon. Bob Graham, Governor of the State of Florida

Good morning. Let me first of all welcome those of you who are visiting our state of Florida. We are proud of our state and proud of the natural environment which makes us so attractive.

And we are grateful to the members of the U.S. Congress for the $500 million in civil works you have authorized for our state in the past five years. This level of expenditure is a significant contribution to our plans to deal with the costs of being a growth state.

Florida is among America's fastest growing states. We have many needs—we need new schools, more teachers, roads, bridges, mass transit, water and sewer lines—but there is one thing we don't need, and that's the Cross-Florida Barge Canal.

I don't mean to make you feel unwelcome by using excessively clear language—but we do not want this canal. Period. We will make available for purposes of the record a complete set of documents related to our unwavering opposition to this bad idea. Let me briefly review some of the highlights:

President Nixon terminated all work on the project in 1971—or so we thought. In 1972 the Governor and Cabinet suspended support for the project, pending completion of economic and environmental impact studies.

In 1976 a definitive review and analysis found no reason to continue the project, and abundant reasons to cancel it. On January 17, 1977, the Governor and Cabinet of Florida adopted a resolution condemning this project and requesting its deauthorization. On August 3, 1983, the Governor and Cabinet adopted another such resolution requesting deauthorization. On May 16, 1985, the Florida Legislature passed a memorial to the United States Congress requesting deauthorization.

Lest you think that public and legislative sentiment is anything less than overwhelming on this point, the margin by which that memorial passed the Florida House of Representatives was 105-5. In the Florida Senate, the vote was 33-3. One argument we hear frequently is that since the project has been dormant for so long, there is no need to deauthorize it. A trial court in our state has adopted this point, ruling that such a long delay constitutes abandonment.

But there are compelling reasons to deauthorize. As the theologian Harvey Cox has expressed it, "Not to decide is to decide." And a decision not to deauthorize the barge canal has significant negative consequences. If we decide to drift along in our present position, we will continue to waste public resources on hearings such as this one, endlessly debating the fate of this project. We can deauthorize it and save money to apply toward the federal deficit.

Second, at this point, a mere appropriation of funds can actually trigger construction at any time. This is a critical point. We must end this threat once and for all by deauthorization. It's time to put an end to the present precarious state of affairs.

Third, deauthorization will permit us to identify sensible and productive uses for the land now tied up in this misbegotten project. Today, all efforts to expand the Ocala National Forest, to construct a Veterans' cemetery, or to construct a small hydroelectric dam on Lake Rousseau have been shelved, pending deauthorization. Advocates of these and other potentially valuable projects should be given an opportunity to make their case—an opportunity deauthorization will provide.

Fourth, there is a significant legal issue to be resolved. As a part of this unwanted barge canal project, the state has obtained easements on 7,767 acres of private lands in the vicinity of Lake Oklawaha. If the project is deauthorized and the land is designated for another public purpose which is no more restrictive upon the land than its current designation, our easements will be protected.

If we remain mired in indecision, and the courts continue to uphold the notion of federal abandonment, we run the risk of losing our easements on these now-flooded 7,767 acres. In short, we must make a decision—and that decision should be a resounding vote to deauthorize this project that the people of Florida have said so often, so overwhelmingly, that we do not want. We are unable to document a single case in which the Corps of Engineers has continued to pursue a project which the state in question has rejected. In the state of Minnesota, Congressman Stangeland, there is no project in which the Corps seeks to override the will of the people of Minnesota.

In the state of New Jersey, Congressman Roe, there is no project in which the Corps seeks to override the will of the people of your state. All we are saying is, we don't want this project. You are not building it now. Deauthorize it and kill it once and for all. With all appropriate respect, Congressmen, how many times do we have to say no? How many ways are there to say no? Please—take no for an answer.

We don't want the barge canal, it's not even under construction, and the public opposes it. It's time to deauthorize it and turn our attention to more productive activities. Deauthorize the barge canal, Congressmen. Do it now.

State Of Florida

RESOLUTION

WHEREAS, the Governor and Cabinet, sitting as head of the Department of Natural Resources, on December 16 and 17, 1976, considered extensive testimony concerning the economic justification and environmental effects of the Cross Florida Barge Canal; and

WHEREAS, by resolution adopted January 17, 1977, the Governor and Cabinet recommended against completion of the Cross Florida Barge Canal Project and requested the United States Congress to deauthorize this Project; and

WHEREAS, the Florida Legislature in 1979 adopted Chapter 79-167, Laws of Florida, which provided for the orderly disposition of Canal lands and facilities upon deauthorization of the Cross Florida Barge Canal Project by the United States Congress; and

WHEREAS, Chapter 79-167, Laws of Florida, provides for refunds to counties contributing ad valorem tax dollars to the Cross Florida Barge Canal Project, plus interest from the date of such contributions, and interest assessments thereunder continue to accrue against Canal assets; and

WHEREAS, litigation has been filed seeking reverter of Canal lands to former landowners which in some instances has been successful; and

WHEREAS, S. 1737 and H.R. 2695 have been filed in the United States Congress and Congress has under consideration the deauthorization of the Cross Florida Barge Canal Project.

NOW THEREFORE BE IT RESOLVED THAT:

The Governor and Cabinet of the State of Florida, recognizing the authority of the United States Congress to require completion of the Canal, respectfully:

1. Recommend against completion of the Cross Florida Barge Canal Project.

2. Request the United States Congress to deauthorize the Cross Florida Barge Canal Project.

3. Recommend the United States Congress appropriate sufficient funds to purchase Canal lands located in the Oklawaha River Valley and included in the extended boundary of the Ocala National Forest as specified in Section 253.781, Florida Statutes.

DONE AND EXECUTED at Tallahassee, Florida, this the 9d day of August, 1983, A.D.

Bob Graham
Bob Graham
Governor

George Firestone
George Firestone
Secretary of State

Jim Smith
Jim Smith
Attorney General

Gerald Lewis
Gerald Lewis
Comptroller

Bill Gunter
Bill Gunter
Treasurer

Doyle Conner
Commissioner of Agriculture

Ralph D. Turlington
Ralph D. Turlington
Commissioner of Education

House Memorial No. 378

A memorial to the Congress of the United States, urging Congress to take whatever action is necessary to provide for the deauthorization of the Cross Florida Barge Canal Project.

WHEREAS, the Legislature of the State of Florida took every available step in 1979 to repeal the Cross Florida Barge Canal Project through the adoption of chapter 79-167, Laws of Florida, and

WHEREAS, any further legislation or action providing for the deauthorization of the Cross Florida Barge Canal requires action by the Congress of the United States, and

WHEREAS, the Legislature of the State of Florida has determined that the Cross Florida Barge Canal Project would have a deleterious effect upon the ecology of the state, would adversely effect the freshwater aquifers of the state, and that the positive benefits of the project would be outweighed by its negative effect on the states' environment, and

WHEREAS, the Legislature of the State of Florida has demonstrated its ongoing dedication to the preservation of the environment by passing legislation to preserve its wetlands and legislation aimed at protecting the state's freshwater aquifers, and

WHEREAS, it is fitting and appropriate that the Legislature of the State of Florida urge the Congress of the United States to take whatever action is appropriate to provide for the deauthorization of the Cross Florida Barge Canal Project, NOW, THEREFORE,

Be It Resolved by the Legislature of the State of Florida:

That the Congress of the United States is requested to take whatever action is necessary to provide for the deauthorization of the Cross Florida Barge Canal Project.

BE IT FURTHER RESOLVED that copies of this memorial be dispatched to the President of the United States, to the President of the United States Senate, to the Speaker of the United States House of Representatives, and to each member of the Florida delegation to the United States Congress.

Filed in Office Secretary of State May 16, 1985.

RESOLUTION

WHEREAS, the Governor and Cabinet of Florida, sitting as Head of the Department of Natural Resources, on August 1, 1972, rescinded their previous policy supporting completion of the Cross Florida Barge Canal through the Oklawaha River Valley and on that date suspended their support of this project until such time as:

1. A new benefit-cost ratio study, which includes up-to-date interest rates and construction costs and re-evaluation of recreational benefits, is completed and demonstrates to the satisfaction of the State that this is a wise expenditure of taxpayers funds.

2. An environmental impact statement, as required by Section 102 of the National Environmental Policy Act, is completed and available to the State for final evaluation as to the environmental effects of the Canal.

WHEREAS, restudy documents were prepared and released by the U. S. Corps of Engineers in the summer of 1976 and did contain a draft environmental impact statement and a benefit/cost ratio study displaying up-to-date interest rates which were additionally updated in December 1976; and

WHEREAS, the Governor and Cabinet of Florida, sitting as the Head of the Department of Natural Resources, on December 16 and 17, 1976, did consider the restudy documents and take public testimony relative to the Cross Florida Barge Canal;

NOW THEREFORE BE IT RESOLVED THAT:

A. The Governor and Cabinet, sitting as the Head of the Department of Natural Resources, and recognizing the authority of the United States Congress to complete the canal, respectfully:

1. Recommend against completion of the Cross Florida Barge Canal Project.

2. Request the United States Congress to de-authorize the Cross Florida Barge Canal Project.

3. Recommend to the United States Congress that it authorize and appropriate sufficient funds for federal participation in and implementation of the following recommendations:

(a) Establishment of a State-Federal Task Force to study and recommend the best disposition and use of the canal lands with special emphasis on:

(1) Restoration of the Oklawaha River, its designation as a wild and scenic river, and its inclusion in the Ocala National Forest;

(2) Use of other remaining canal lands for public recreational and environmental purposes especially to meet the present and future needs of the canal-area counties; and

(b) Lands previously supplied by the State of Florida to the Federal Government and not necessary for use by the Federal Government for a wild and scenic river system or Ocala National Forest be returned to the State of Florida.

4. Direct the staff of the Department of Natural Resources to coordinate state efforts in an interagency State-Federal Task Force to study and recommend the best disposition and use of the canal lands with special emphasis on restoration of the Oklawaha River, its designation as a wild and scenic river, and its inclusion in the Ocala National Forest.

5. Direct the Division of State Planning of the Department of Administration to study and make specific recommendations for applications to be made by the State of Florida to the United States Congress for funding of sewage treatment construction projects in the State of Florida, for federal impact funds for economically depressed areas, as well as other federal funds which will have an impact on the State of Florida.

B. The Governor and Cabinet, sitting as the Head of the Department of Natural Resources, recommend to the 1977 Florida Legislature that:

1. The responsibilities of the Canal Authority be amended in order to retain public ownership of the lands associated with the project as necessary to accomplish "A" above.

2. Legislation be enacted which will permit appropriate title to be secured for those lands currently held in easement as necessary to accomplish "A" above.

3. Title to the lands associated with the project retained by or returned to an agency of the state be transferred to the Trustees of the Internal Improvement Trust Fund.

4. Chapter 374, Florida Statutes, Part II (Sections 374.301-374.521) be repealed and any funds remaining in the accounts of the Cross Florida Canal Navigation District and not legally obligated, be returned to the counties in the District on a prorata basis, established by the tax monies furnished to the District by these counties.

5. Section 20.25(12), Florida Statutes, be amended to read "The canal authority of the State of Florida, created under part I of Chapter 374, is transferred by a type three transfer to the Department of Natural Resources and the functions shall be assigned to the Division of Resource Management".

6. All such state lands determined not to be necessary for recreation, wildlife or environmental preservation be sold at public sale to the highest bidder and the funds derived be refunded to the counties involved on a prorata basis in the manner established by the tax monies furnished by these counties for the Cross Florida Canal Navigation District. The total monies refunded to the various counties are to be calculated by converting the actual amount furnished to its present dollar value giving the effect of interest charged at average market rates being compounded annually over the total period of financial commitment. Should the funds so derived be in excess, any surplus will be returned to the different counties on a prorata basis. Should the funds so derived be insufficient, the Governor and Cabinet, sitting

as Head of the Department of Natural Resources, recommend to the Florida Legislature that they appropriate sufficient funds to fulfill this obligation.

C. The Governor and Cabinet, sitting as Head of the Department of Natural Resources, direct the staff of the Department of Natural Resources, upon approval and implementation of "B.5", to prepare any additional legislative recommendations for use or disposition of resources and facilities of the project consistent with the above recommendations.

DONE AND EXECUTED at Tallahassee, Florida, this 17th day of January, 1977, A. D.

Reubin O'D Askew
Governor

Bruce A Smathers
Secretary of State

Attorney General

Gerald A Lewis
Comptroller

Bill Gunter
Treasurer

Commissioner of Agriculture

Ralph D Turlington
Commissioner of Education

ATTEST:

Secretary

As and Constituting the Head of the State of Florida Department of Natural Resources.

DSP-BIR-45-76

THE CROSS FLORIDA BARGE CANAL

A Review and Analysis

FLORIDA DEPARTMENT OF ADMINISTRATION
Division of State Planning

October 1976

DEPARTMENT OF ADMINISTRATION

Lt. Gov. J. H. "Jim" Williams
Secretary

Wallace W. Henderson
Assistant Secretary

Division cf State Planning

Randolph G. Whittle, Jr.
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Walter O. Kolb
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Dale Walker
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The Division of State Planning appreciates the valuable assistance provided by governmental agencies, private organizations and interested citizens.

EXECUTIVE SUMMARY

This report contains the Division of State Planning's analysis of the Draft Environmental Impact Statement (DEIS) and supporting Restudy Reports prepared by the Jacksonville District Corps of Engineers regarding the proposed Cross Florida Barge Canal. Functioning as the state planning and development clearinghouse, the Division, in the preparation of this document, has also used the analyses of other agencies.

It is the conclusion of the Division of State Planning that the Canal should not be completed, and that the project be deauthorized. This conclusion is based upon extensive and thorough study of all materials submitted by the Corps for evaluation. Additionally, it is recommended that an interagency study be undertaken to: (1) evaluate the various "no-go" alternatives of restoring, preserving, or abandoning all or separate parts of the canal; (2) select the most advantageous alternative (described by reaches and works); and (3) develop a specific plan for implementing the task force's recommendations including a comprehensive program for dealing with the legal problems which will develop. The findings should be submitted by April, 1977.

The conclusions of the Division of State Planning are based upon the following findings:

A. Economic Issues

1. The benefit-to-cost ratio (B/C) has used overestimated benefits and underestimated costs. (pages 29-34)

2. Assuming that all cost and benefit estimates are accurate, at the lowest interest rate (2-7/8%), the canal project yields a marginal

benefit-to-cost (B/C) ratio of 1.28. (page 3)

3. Use of the 2-7/8% interest rate provides the Cross Florida Barge Canal an unrealistic competitive advantage over those projects conceived at a later date and evaluated at a higher interest rate, even though such projects may, in fact, be more advantageous to the public. (pages 2-3)

4. The procedure of eliminating past expenditures (sunk costs) from economic reanalysis of ongoing projects further biases the appraisal. Objective analysis requires that:

(a) a calculation using the 2-7/8% interest rate must also include all past expenditures;

(b) past expenditures may be excluded only if the current interest rate (6-1/8%) is used.

An additional methodological inconsistency is introduced by the Corps' practice of eliminating past expenditures while retaining the benefits derived from those expenditures in the B/C analysis. (page 3)

5. The Corps' B/C analysis does not evaluate the secondary economic impact on other modes of transportation. (page 24)

6. The Corps of Engineers has stated that secondary economic development resulting from the canal will be relatively small. (page 5)

7. Most of the ecological and resource costs associated with completion of the canal will be borne by the State of Florida, while many of the benefits will accrue to areas outside Florida. (page 4)

8. The DEIS has significantly underestimated the costs projected for completion of the CFBC (page 6). For example, grouting in the 28-mile length of the Summit Reach may cost many times the Corps' estimate. (page 18)

9. The DEIS does not adequately discuss, nor does it quantify the

extensive environmental impacts which would occur from the construction and operation of ancillary facilities. It appears that the B/C analysis excluded the costs for the transloader facility, while its benefits of $5.78 million are included. (pages 16-18)

10. The transloading facility is an integral part of the project, however, its construction cannot be assured. (page 17)

11. "Recreation costs" are underestimated and only minimal costs for aquatic weed control are included although substantial weed control will be necessary to realize the recreation benefits claimed in the Restudy Reports. (pages 18-19)

12. The transportation benefits which are claimed are inadequately defined or justified, and appear to have been overestimated significantly (pages 20-23)

13. Over 75% of the recreational benefits claimed by the Corps would accrue without completion of the project. These projected benefits, therefore, do not represent a net gain to society. (pages 24-26)

14. The projected recreation benefits are the type in which the State of Florida is already rich, while those recreational opportunities which would be destroyed by the canal are both unique and rare (page 26) It is apparent that genuine recreation benefits from the canal are not substantial and should not be a significant factor in evaluating the CFBC. (page 26)

15. The B/C calculations are biased toward the construct alternatives by retaining the costs of land as "costs" in the "do not construct" alternative, rather than eliminating them as was done with other "sunk costs." (pages 33-35)

16. The projections of induced benefits or moves do not make clear

what commodities or markets are being analyzed; how calculations were reached; and why a 400% increase in induced benefits was projected from the interim transportation report to the final report. (pages 20-23)

17. A number of the projected movements of commodities do not seem plausible, while the growth in projected shipments of some commodities does not appear to be realistic. (pages 20-21)

18. Among the "no-go" alternatives there is a bias toward the preserve alternative; costs are significantly overstated; and benefits are understated. (pages 33-35)

B. Environmental Issues

19. The DEIS neither quantifies nor qualifies environmental costs inherent in completing the CFBC (page 6), although analysis indicates that such costs will be significant.

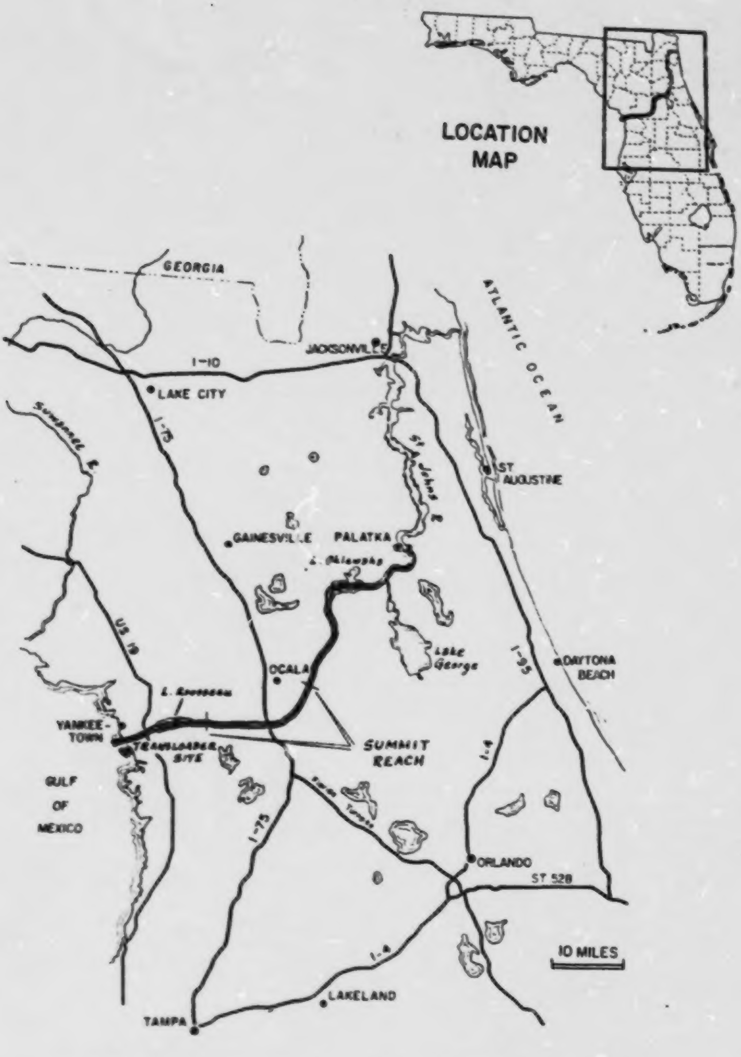
20. Frequent violations of state water quality standards are now occurring in the completed portion of the CFBC, and water quality will be further degraded if the project is completed. (page 7)

21. Pollution of the Floridan Aquifer in the area of the Summit Reach will possibly occur unless the entire reach is sealed. Complete sealing would be very costly and may not be practicable. (pages 10-17)

22. Potential spills of chemical products pose a hazard to all canal surface waters and, in the Summit Reach, to the Floridan Aquifer. (pages 8-9)

23. The DEIS discussion for spill cleanup is nebulous, and the effectiveness of techniques for handling toxicants has not been established. (pages 8-9)

24. Florida taxpayers may be liable for water pollution and other damages resulting from the project due to the Canal Authority's pledge


LOCATION MAP
GEORGIA
ATLANTIC OCEAN
JACKSONVILLE
I-10
LAKE CITY
I-75
Suwannee R.
St. Johns R.
ST AUGUSTINE
GAINESVILLE
PALATKA
L. Oklawaha
US 19
Lake George
I-95
DAYTONA BEACH
OCALA
L. Rousseau
YANKEE-TOWN
TRANSLOADER SITE
SUMMIT REACH
I-4
GULF OF MEXICO
I-75
Fla. Turnpike
ORLANDO
ST 528
I-4
10 MILES
LAKELAND
TAMPA

CROSS-FLORIDA BARGE CANAL AREA

BEST COPY AVAILABLE

to "hold and save the United States free from all damages due to construction works." (page 11)

25. Canal construction and operation would constitute a major consumptive use of water which, by preempting local water resources, may hinder economic development in the vicinity of the canal. (pages 11-12)

26. There will be insufficient water to operate the canal and maintain historic downstream flow during drought periods. (page 11)

27. The DEIS understates the cost of aquatic weed control, and contains no plans for control other than the use of herbicides which will further degrade water quality. (pages 12-13)

28. The Oklawaha Valley is a unique sub-tropical ecosystem which has been severely impacted by the Rodman Reservoir. Completion of any of the construct alternatives would result in varying degrees of destruction to the remainder of the valley. (pages 13-14)

29. The DEIS lists wildlife benefits derived from completion of the canal. These benefits, however, are questionable and apply only to small areas and common species. Adverse impacts to wildlife would likely be severe, would extend over a large area of Central Florida, and would affect species of special concern. A large net loss of wildlife resources would occur. (page 14)

30. An adverse impact on fishery values will occur by the conversion of a river fishery to a more commonplace reservoir-type impoundment. (pages 14-15)

31. Completion of the CFBC will have a large-scale adverse impact on benthic communities, with consequent adverse ecological effects. (pages 14-15)

32. The DEIS does not adequately reflect the long-term value of future timber growth that will be lost over the life of the project. The

Florida Division of Forestry estimates this value to be $67,000,000 at 2-7/8% interest. (pages 16-17)

33. It should be noted that while the points listed above emphasize the negative impacts relating to Florida's interests and concerns, the following positive impacts should be considered:

(a) The construction of the CFBC would result in the creation of between 700 and 900 construction jobs over a seven- to eight-year period. (page 4)

(b) The completion of the canal would provide some economic benefits to the Jacksonville area and additional employment opportunities throughout the life of the project. The Corps estimates that in the four-county area of Citrus, Levy, Marion, and Putnam, an additional 15,000 jobs might result by the year 2030, if the canal is completed.

(c) The canal would provide gross savings through the shipping of certain commodities, i.e., chemicals and grain.

(d) The canal project would provide additional recreational facilities to the Northeast Florida area.

STATEMENT BY VICTORIA J. TSCHINKEL, SECRETARY DEPARTMENT OF ENVIRONMENTAL REGULATION

In 1976, the State of Florida strongly opposed completion of the Cross Florida Barge Canal and urged deauthorization of the project. In 1985 the state's position remains unchanged and the reasons for opposition are exactly the same as those expressed in 1976: First, and most important, the project has serious environmental consequences; There is no economic justification for it; and, the high cost of the project would compete with Florida's priority public works projects.

Nothing will change Florida's concerns about the enormous environmental damage of the barge canal—the project remains environmentally unacceptable. We believe that the economic restudy will find that the project is still economically unjustifiable and a burden to taxpayers. There is no reason to proceed with this project any further, and once again we request deauthorization.

The Cross Florida Barge Canal proposal flies in the face of everything the State of Florida has been doing since the early 1970's to protect and restore its environment. And we are here today, once again, to have to argue against completion of the Cross Florida Barge Canal which would do serious damage to Florida's environment.

A. Florida has the strongest groundwater protection requirements in the nation. The water Quality Assurance Act of 1983 gave us broad powers to protect our groundwater, which is the source for over 95 percent of Florida's public water supplies. We even regulate such things as swimming pool drainage wells that discharge into the groundwater.

Yet, the barge canal would cut through 28 miles of the Floridan aquifer, allowing 40 mgd of groundwater to enter and leave the canal through the aquifer. It would also expose potable water to the threat of contamination from spills of chemical and petroleum products. One gallon of gasoline can contaminate a million gallons of water to an undrinkable level.

B. Over the past several years we have made three major legislative and rule changes to protect and restore our valuable natural systems:

1. We have adopted a state water policy which directs the state to manage its waters for the conservation and protection of Florida's natural resources and scenic beauty. It specifically discourages channelization or other alteration of natural rivers, streams, and lakes, a policy which the Florida Legislature just last month included in the state's Comprehensive Plan.

2. We passed the 1984 Wetlands Protection Act significantly improved the state's ability to protect our wetlands by expanding the DER's jurisdiction in wetlands and authorizing the department to consider not only water quality, but also impacts on fish and wildlife and their habitats in dredge and fill permitting decisions.

3. We have adopted a Save Our Rivers Program, under which it is forecast that ¾ of a billion dollars will be available to purchase lands over the next 40 years for water management, water supply, and the conservation and protection of our water resources.

And, the state is spending hundreds of millions of dollars to clean up and reverse past environmental mistakes. For example, the St. John's River Water Management District is spending $276 million (including $87 million of Corps funds) to restore the Upper St. John's River. And the South Florida Water Management District is spending $41 million on land acquisition and a demonstration project—and has developed a strategy that will cost an additional $84 million—to restore the channelized Kissimmee River, or C-38 as it is now called.

Yet, over $400 million would be spent, under one alternative, on a project that would convert high quality, free-flowing Oklawaha River water, which now meets state water quality standards for recreation and the propagation and management of fish and wildlife, into low quality impoundment waters in violation of standards set to preserve and enhance their beneficial uses. Miles of river floodplains also could be lost, and twenty additional miles of the Oklawaha River could be flooded and channelized.

C. The state's five water management districts regulate consumptive use of water to protect water resources. For example, the Southwest Florida Water Management District requires a permit for users of an average 100,000 gpd of water.

Yet, this project would consume between 50 mgd and 75 mgd of water, which would be one of the single largest consumptive uses in the state. To put this figure into perspective, the public water supply use of Hillsborough County (the fourth largest county in the state) in 1983 was 83 mgd.

We doubt very seriously that the economic restudy will bring to light any new information that will change our position. Regarding the economics of coal transportation, several cost effective competing modes of transportation already exist to deliver coal to existing and proposed coal-fired power plants in Florida. And there is no evidence that the barge canal would be a cost-effective alternative. In addition, the coal slurry pipeline cannot be ruled out as a future mode of transportation. A State of Florida study found, on a preliminary basis, that such a pipeline is a cost-effective and environmentally acceptable coal transportation alternative. Transportation benefits for the canal will also be reduced with the increase in waterway user fees, which has strong and increasing support from Congress and the President. Furthermore, the restudy is on economics only, and the state's primary concerns remain environmental.

As we have maintained for the past nine years, we find this project environmentally unacceptable and economically unjustifiable. The State of Florida has a lot to lose, and very little to gain from this project. The Cross Florida Barge Canal should be laid to rest once and for all.

Mr. Roe. All right, our next witness is former Governor Bryant. Governor, would you join us? Governor, we want to welcome you to our committee and we know of your great work over the years for the great State of Florida. So if you would go ahead with your testimony and give us some thoughts and overviews you may have on this important issue.

TESTIMONY OF HON. FARRIS BRYANT, FORMER GOVERNOR OF THE STATE OF FLORIDA

Governor Bryant. Mr. Chairman, members of the committee, Mr. Shaw, Mr. MacKay, I am grateful for this opportunity to address you. I am sorry that because of a personal emergency, which has totally occupied me for the last 2 weeks, I do not have a prepared statement, and I really cannot add much factually to what you already know. I know of your diligence and your exposure to this problem.

Let me say that I have the greatest respect for Governor Graham, as I did for Governor Askew before him, but I would not have you think that the history of this in Florida has been as one sided as might appear. [Applause.]

As a matter of fact, every Governor of Florida supported this project until Claude Kirk was elected, and since that time the Governors of Florida have been opposed to it. Mr. Kirk does not say much about it anymore, he is involved in running for President, either as a Democrat or a Republican, depending upon the year in which it occurs. [Laughter.]

I would say that this canal would have been completed today and commerce would be flowing upon it and it would be serving its recreational purpose, but for the fact that President Nixon, without notice and without a hearing, decided to illegally stop the work on the canal. Of course, that is water over the dam now.

What action Congress is going to take now is after hearing and notice to people, so they can be heard. I wish it had always been so.

But Florida needs this canal. You have heard the testimony as to how great is its growth; that is true, it has always been that way. Florida has doubled in population every year—every 20 years from 1820 down to 1950. Since that time, it has been doubling virtually every 10 years, and that rate of growth seems to be continuing.

That means several things. One is that we have got to support many, many thousands, over the next 10 years 2 million more people. We have got to support them with water, of course. We have got to support them with jobs and we cannot all work in fast food stores and high tech businesses, desirable as that might be. It has got to be a productive society. A canal would help us be that way. It would also provide for us a water reservoir which will have a capacity adequate to serve the great city of St. Petersburg, I believe for a year. And that is a reservoir not to be lightly cast aside.

In addition to that, Florida needs it because it needs to be tied in with the inland waterway system. You gentlemen approach this on a national basis and properly so, because a simple observation of the maps on the wall shows that the piece of canal we are talking about is a missing link, which if supplied, would create the greatest canal system in the world, running from Mexico on one side to Maine, something of which the Nation can take pride and use for the benefit, not just of Florida, but of commerce all over the Nation, up and down the Mississippi River, on the Tennessee and Tombigbee canal and river. So this is a matter that is important to the Nation.

The first question that you have before you is a question of completion of the study you have authorized. That will be done and I hope you will not reach a conclusion on the canal before you have the benefit of that study, because it will tell us whether or not this is economically viable. If it is not economically viable, it should not be built. If it is, at a minimum, further consideration, depending on the figures, should be given to its construction.

What the Governor and others are saying to you is deauthorize this canal so it will preclude you—we are afraid of Congress. The way it stands right now, Congress can build this simply by appropriating money and we do not want Congress to have that authority. Regardless of what the national needs may be, we ask that you preclude yourself from further consideration of this matter.

I think that is not a proper position for the State of Florida to take in this matter.

I want to say one other small thing. Andrew Jackson was the first Governor of Florida to propose this canal, he later became President. Franklin Roosevelt began the construction of the canal, he was extremely knowledgeable about it. Indeed, it was supported by every President I believe until Jimmy Carter—no, Richard Nixon.

One reason it was supported initially was its defense capabilities. A lot of people today laugh about it. My first service in the Navy was as an ensign and a gunnery officer on an oil tanker leaving Galveston heading for New York and then for England in the winter of 1942. There were two of my classmates—and we were very green that particular fall—who were on companion ships, three of us left Galveston zigzagging by friendly Cuba until we got to New York, except that they did not get there. Out of the three ships, my ship was the only one that got there.

So I am a little bit more sensitive to the defense capabilities of this proposal than some people might be.

In summary, what we need on this matter is further knowledge as to its economic viability. If it is, I think the environmental considerations can be and have been addressed by the Corps of Engineers. I would be willing to take their judgment on it. So far, that judgment as I have read it in the reports of your committee, is that they think that there will be an insignificant environmental damage and that any environmental risk will be easily controllable by accepted and proven engineering concepts.

So thank you, gentlemen, for your presence here, for listening to what I have to say, and I will tell you this—whatever you decide, you and the Congress decide, will be acceptable to me and to the bulk of the people of Florida. We will not be asking for some illegal action to complete the canal if the Congress of duly constituted authorities and the President decide that it should not be built.

[Applause.]

Mr. ROE. Are there any questions of the Governor?

Mr. STANGELAND. No; I just want to thank the Governor for appearing and giving us a different perspective and historical viewpoint.

Thank you, Governor.

Mr. ROE. Any other questions? The gentleman from Florida.

Mr. SHAW. Governor, I want to thank you also for being here. You have certainly done a great deal for this State. Being from Fort Lauderdale, we certainly recognize the good work you did as far as getting us the turnpike; that too was a controversial decision back in those days.

I am not saying you are always right, but you certainly have made an extremely positive contribution to the State of Florida, and I certainly want to recognize what a popular and great Governor you were for the State of Florida, and we are certainly honored by your presence here.

Mr. ROE. Mr. MacKay.

Mr. MACKAY. Governor Bryant originally was from Ocala also and I think historically the committee should understand that Congressman Chappell, Governor Bryant and I are all three from Ocala, and he certainly has a great knowledge and background and a great love for this State.

I believe your testimony, Governor, frames the issue very well. It is really a judgment issue and the judgment call is whether the economic advantage to the State of Florida, taken as a whole—not one part of Florida, but to the State of Florida taken as a whole—whether that economic advantage overrides the potential for environmental disaster. That is really the question.

My difference on that, and we all are part of the same history—my grandfather favored the canal, my father favored it, I favored it myself until I became aware of how the cutting of the summit reach would threaten what I consider to be a very fragile water system. You know, back during the time you are talking about, we looked at water very differently. Water was something to be gotten rid of, you got rid of water, you drained things so that you could plant more. We were an agricultural State.

Now as Secretary Tschinkel says, the people who meet in this very room, the St. Johns River Water Management District, are spending 285 million taxpayer dollars to undo some of the things we did in the 1940's and 1950's. They are doing that so we can have water and that water they are trying to protect in south Florida is Jacksonville's water.

Now the point I am trying to make is, there are people sitting in this room who are worried about the water for the barge canal because it flows south. The people in Jacksonville feel the St. Johns

River Water Management District is doing a good job spending money to straighten things out and that water flows north.

I am saying, it seems to me that as our knowledge of this State and its fragility becomes more complete, we need to relook at these issues. That is the only point.

Governor Bryant. I could not agree with you more, and I hope that whatever study is undertaken will be thorough on that matter and a fight will not be issued by some branch of the Government by itself illegally, to change the course of history in this matter.

If it is decided that the environmental damage will overwhelm the economic benefits; again, I would be as opposed to it as you are.

Mr. MacKay. But Governor, how can we ever decide whether the economic advantages overwhelm environmental benefits? The two do not meet, and that is the exact problem, and when we finish the next study, which is not studying the environment, it is studying the economic benefits—when we finish that study, you know as well as I know what that study is going to say. It is going to say just what the last one said, and that is, it appears this thing is marginally economically feasible and it appears there is a great deal of risk to the environment, but maybe not too much. The Corps has never admitted that there was something they could not correct. [Laughter.]

And they never are going to. [Applause.]

Mr. MacKay. So, with all due respect, when this study is completed, we are going to have the same decision to make that we have got right now, and that is, you have got two values that do not come together; one of them is environmental, it is a public good—and the other is economic, and you the Congress, the political leaders, are going to have to decide how you reconcile it.

Governor Bryant. That is a perfect statement of a no-growth philosophy. [Applause.]

Mr. Roe. Now ladies and gentlemen, if I may and if the gentleman will yield—we have an awful lot of work to do today. I think we developed a real nice spirit in our beginning and I want to keep that spirit going, but I also feel that the purpose of our hearing is to have every citizen and every former official and Governor make their expressions and their views.

As Mr. MacKay and the very capable member, Mr. Shaw, realize, what we are trying to do is to come up with a solid, sensible decision with every thought having been considered. And that is really the purpose of our hearing today.

So, if we could refrain just a little bit from our enthusiasm or our discord, I think it would help us to expedite our hearings and get to the meat of what we are trying to do today.

The gentleman from Florida.

Mr. MacKay. Mr. Chairman, blessed are the peacemakers.

Mr. Roe. They shall not inherit the Earth.

Mr. MacKay. Your point is very well taken. Governor, I apologize if I came back too strong.

Given time—you should understand there is no way, given time, that Governor Bryant would not express his views at least equally to anyone in this room.

Mr. Roe. May I suggest the following observation. I think that the Governor is presenting the basic view of his observations of what has happened and where we are at today. But I think the Governor also has said that after all the facts are before us, we then have to make a decision and it has to be made on the basis of the facts we have before us. I think that is what you said. I commend you for that basic observation.

Out of bad comes good, however, because had not the previous leadership up to this point been as firm as it had, the debate would not even be taking place. And I can remember well in my own State that we had to convince people 20 years ago that water resources were important. Now we are looking at the overall picture.

So, I want to thank you very much, Governor, for your contribution here today. It has been pleasant to have you here.

Mr. Shaw. Mr. Chairman, I would like to clarify the record on one thing that the Governor mentioned, if I may, and that is that Governor Kirk has been a Democrat now for some time, sir. [Laughter.]

Mr. Roe. That was a low blow.

Thank you very much, Governor. [Applause.]

I think we will hear now from Mr. John Pollard, who is representing Congressman Bennett, who told me he wanted so much to be able to be here, but he is tied up in Washington where some of us should be, I suppose, today. He is working hard up there, so Mr. Pollard—is that the correct pronunciation?

Mr. Pollard. Yes, sir.

Mr. Roe. If you would come forward and make your presentation on behalf of Congressman Bennett, we would appreciate it.

TESTIMONY OF JOHN POLLARD, AIDE TO CONGRESSMAN CHARLES E. BENNETT

Mr. Pollard. Mr. Chairman, and members of the committee, Congressman Bennett expresses his regrets and apologies that he was unable to attend, but he did send a prepared statement which I will read.

Mr. Roe. If you would be so kind.

Mr. Pollard [reading].

The amendment of my colleague, Congressman MacKay, to deauthorize the Cross Florida Barge Canal should be defeated. The canal should not be capriciously ended, but its values and imperfections should be carefully considered before any action is taken to deauthorize it.

This is true because of the importance of the issues involved and because large amounts of money are already invested. I have vigorously supported the canal through the years and great sums of Federal money have been put into the canal at my request, all of which was requested of me by the State of Florida and by local, city and county officials. I am told that the total Federal expenditure for the canal to date has been $79 million and that the total money put into the canal by the State of Florida, including the counties along the line of the route, is $14 million.

The deauthorization of the project will not save any money. In fact, no money has been spent on construction of the project since 1971 and no money will be spent on its construction until an updated cost benefit analysis has been completed and Congress, by new law, makes appropriations for new construction. The new updated analysis now underway has been fully funded by Congress and should be completed by September of this year. Not to consider this analysis now underway does not make any sense.

There seems to be the implication that the project should be deauthorized because it is environmentally unsound. Many people who should know better have said so. That argument, which has been around for many years, is not borne out by the studies made by the government. President Nixon halted construction and argued that there were dangers involved from an environmental standpoint, citing that certain pests could be transferred from the Gulf of Mexico to the Atlantic Ocean. This was later shown to be unfounded as the so-called pests were already disbursed in both areas on the western and eastern sides of Florida.

The President took this action without any notice to or opportunity to be heard by the proponents of the canal. Interesting enough, there is still the argument about the danger to the aquifer and the water supply in Florida. The Army Corps of Engineers' environmental impact statement and a study by the U.S. Geological Survey, confirmed that there was no indication that the aquifer would be endangered. In fact, the entire project received a clean bill of health.

In Marion County, where Mr. MacKay is from, it was found that numerous drainage wells had been draining oil and other harmful debris into the aquifer for many years. This would probably cause more damage to the water supply and aquifer than the completion and use of the Cross Florida Barge Canal for the future years of its existence.

Finally, it is ironic that construction of the canal has produced so many acknowledged environmental benefits despite the opponents' continued opposition on that basis.

The area along the canal has become a well-known haven for bald eagles. Lake Oklawaha and the Rodman Reservoir also have created recreational opportunities that have substantially increased the enjoyment of the area by Florida residents.

I am convinced that if the canal is completed, recreational and environmental values throughout the State would be strongly enhanced. To deauthorize the canal and tear it apart would be a major detriment to the environment, in my opinion. But in any event, no action to deauthorize should be considered until the ongoing study is completed, which I understand is expected to be accomplished before the end of the year.

That is the end of the statement, gentlemen. However, he did receive a letter Friday from the Northside Businessmen's Club, and asked that I also enclose that.

Mr. **Roe**. The gentleman may proceed.

Mr. **Pollard** [reading]:

Congressman Charles E. Bennett,
400 West Bay Street,
Jacksonville, Fl.

Dear Charlie: At its May 22, 1985 meeting, the Northside Businessmen's Club reaffirmed its support for the completion of the Cross Florida Barge Canal. We have long supported the canal, as you can see from the enclosed resolution dated May 25, 1976. We feel it is more needed now than ever before and believe its economic impact would greatly offset the cost in years to come.

Please advise us if we can be of any help to you by drawing up a new resolution or getting individual support letters from the community.

Sincerely,

Harold Browning, *President.*

Mr. **Roe**. Are there any questions for Mr. Pollard? The gentleman from Minnesota.

Mr. **Stangeland**. I have no questions at this time, Mr. Chairman.

Mr. **Roe**. Mr. Pollard, thank you very much for being with us this morning. We appreciate your testimony.

Mr. **Pollard**. Thank you.

Mr. **Roe**. Our next group of witnesses will be a panel, representatives from local government. We have Mr. John Mackroth, who is chairman of the Cross-Florida Canal Counties. Is Mr. Mackroth here?

And he will be accompanied by Mrs. Bonnie Allender—is that the correct pronunciation?—of the Board of County Commissioners; Mr. Henry Cook of Jacksonville City Council; Mr. Ray Bunton of the city of Palatka; the Honorable Wayne Rubinas, Mayor of the city of Ocala; and then also we will take in that group, Mr. Roberts of the Putnam County Chamber of Commerce.

Now do we have seats for everybody? Mr. Mackroth, we recognize you.

TESTIMONY OF JOHN MACKROTH, CHAIRMAN, CROSS FLORIDA CANAL COUNTIES; BONNIE ALLENDER, BOARD OF COUNTY COMMISSIONERS, HENRY COOK, JACKSONVILLE CITY COUNCIL; RAY BUNTON, CITY OF PALATKA, WAYNE RUBINAS, MAYOR, CITY OF OCALA, AND MR. ROBERTS, PUTNAM COUNTY CHAMBER OF COMMERCE

Mr. MACKROTH. Thank you, sir.

I am John Mackroth, executive director of the Cross-Florida Canal Counties Association. For your information, the association was established as a corporate entity on December 16, 1983, as a nonprofit corporation. The specific purposes for which the corporation was formed basically was a fact-finding organization, not specifically pro and not against the canal. It was specifically formed to try to accelerate the release of funds to complete the economic study which Congress authorized, to update the 1977 study.

Fortunately, those funds were released last November and advertisements went out and the study was finally underway this May, and they are estimating—Robert A. Macon Associates from Washington, DC, are the consultants undergoing the study—they hope to—I think earlier you were advised that the study is in a new area. It is a study relative to coal, the area of contingency benefits, area development and economic impact. Those four elements were new to the original study. The elements related to the old study will be updated by indexing.

Primarily, as Governor Bryant said, and he is the trustee of this particular organization, we will abide by anything that comes out of the study, but we do think it most important that the study be completed, in order that we can have factual information relative to economics with all aspects being considered. If they are marginal or negative, as Governor Bryant stated, we will abide by that and then the Association in its objectives is going to try to ensure that the counties' investment in tax funds that they have contributed and in the disposition of the land—their rights be protected.

Primarily, gentlemen, what we are asking is that any decision or recommendation that you may make at this particular time might be premature and we would ask that you wait for any recommendation until the facts and the results of this economic study update are available.

Thank you very much.

Mr. ROE. Mrs. Allender.

Mrs. ALLENDER. Congressmen and honored guests, the Cross-Florida Barge Canal began as a work relief project in 1932. A navigational district was created in 1935 consisting of Putnam, Clay, Duval, Marion, Levy, and Citrus Counties. The navigation district was created to provide a source of revenue for right-of-way acquisition for the canal. Taxes were levied and collected on real and personal property in these counties from 1936 through December 1970.

The exact alignment of the canal was not to be selected until a detailed ecological study was done. I, personally, at that time, opposed the route which is currently the route. I wanted the

Oklawaha to remain a wild river. Marjorie Carr also wanted the river to remain in its pristine state. Environmental concerns were raised. These concerns were put to rest as I somehow knew they would be.

A Nation which can put a man on the moon can surely seal the Florida aquifer. Construction of the canal started on February 27, 1964. At that time it was endorsed by the President of the United States and by Congress, by Florida's entire congressional delegation and the Florida Legislature, by the Governor of Florida and the cabinet, the State Board of Conservation, the Florida League of Municipalities, and the State Association of County Commissioners.

The leaders of our Nation and State were all in accord that it was in the best interest of our country and our State. They felt the benefit of 26,000 miles of connected inland waterway to the national defense alone justified completion of the project. The added benefit of low-cost transportation of raw materials and finished products on our national economy was a clincher. Florida would benefit from additional flood control and raised water tables in some areas.

Thirty-six additional recreation sites would be made available to visitors in Florida from all over the Nation. Two additional wildlife areas were proposed.

Today, the attitude of some of the Florida congressional delegation, the Governor and cabinet have changed. I have to ask myself why. The canal was not stopped for environmental reasons, if you consider valid environmental reasons. I would like to comment later on that.

Yet we hear continually of environmental impact from Representative MacKay. He quotes a 1970 report by Glen Faulkner of the U.S. Geological Survey team, but ignores the sworn testimony of Dr. Phil B. Lamoreaux in 1972, who served in Washington, DC as Chief of the U.S. Geological Survey Groundwater Research Branch.

Now we say we are concerned with ground water. Marjorie Carr and the Florida Defenders of the Environment want to see Rodman Dam destroyed and Lake Oklawaha drained. I do not believe this is in the best interest of my constituency. The sport fishing industry would generally suffer. We would lose the Bass tournament which gives a major boost to the local economy each year. Many visitors from all over the United States travel to enjoy the fishing at Rodman.

Our environment was meant by God to be used by man for man's benefit. Man should use his intelligence to improve his surroundings by proper utilization and conservation.

Florida is experiencing heavy growth. Governor Graham and the Florida Legislature voice concerns over the water supplies of the State. No mention is made by them of the report by the Corps of Engineers that the reservoir will provide a 6-month supply of water for a city the size of Miami and St. Petersburg, in the event of an emergency.

The destruction of Rodman Pool would be a disservice not only to Putnam County, but the entire State. I would feel better about the future of Lake Oklawaha if it were not for these facts.

On May 20, 1984, Representative MacKay filed an amendment to H.R. 3678 recorded on page 4997 of the Congressional Record of the

House, which singled out lands in Putnam County. Strong objections were raised by the county to this amendment.

A bill was passed, amending chapter 79-167, Laws of Florida, passed in 1979. This amendment requires the department of natural resources to develop a management plan for the retention or disposition of Cross-Florida Barge Canal lands, to be submitted no later than 1 year after deauthorization by Congress. This became law on July 1, 1984.

Congressman MacKay came to Putnam County on July 3, 1984, and presented to the citizens of Putnam County an amendment which he would present on the floor, which eliminated the verbage which made Rodman Dam and Lake Oklawaha a part of the Ocala National Forest, pending further disposition by Federal law. He also disavowed owing political favors to Marjorie Carr and Florida Defenders of the Environment, which want Lake Oklawaha drained. At this point, he no longer needed verbage to leave the door open for future drainage. The door had been left open in the amendment to 79-167, Laws of Florida.

I have in hand a copy of H.R. 2695, a bill to deauthorize the CFBC, dated April 21, 1983, with a handwritten note which says, "To Marjorie Carr, Maybe this will be the year. Regards, Buddy MacKay."

I also have in hand a file copy of house bill 141, as passed by the legislature with a handwritten note from Governor Graham dated June 15, 1979, which reads, "Marjorie, the people of Florida are the beneficiaries of your 17-year effort. Thank you, Bob Graham."

I have in hand a copy of a review of the State obligation to repay counties of the Cross-Florida Barge Canal Navigation District for land acquisition done by the national resources and conservation committee dated December 1984. The report recommends the law mandating financial obligation be repealed and replaced with an obligation by the State simply to share with the county the county's funds derived from the sale of surplus land. It also states: "It has been argued that these commitments were also made to garner additional support from the counties involved for their support in the complete deauthorization of the canal project."

Our county attorney, Mr. Ronald Clark, considers the amendment to chapter 79-167, Laws of Florida, to be unconstitutional.

In closing, I would like to respectfully request that no action be taken to deauthorize the canal until the following actions have been taken. The economic update study has been received and carefully reviewed. In the event that this does not justify completion. A plan is in hand which clearly defines what will be done with the land and how the counties will be repaid for taxes collected from their taxpayers. And No. 3, that provisions have been made to offer lands which are for sale to the original landowners first.

I would like to thank you for your time and your patience.

Mr. Roe. I thank you very much.

Mayor Rubinas.

Mayor Rubinas. Thank you, Mr. Chairman, Congressman Stangeland, Congressman Shaw, Representative MacKay. My name is Wayne Rubinas, I am mayor of the city of Ocala, FL. We have some tricky names down here also.

I am mayor of the city of Ocala, some 30 to 35 miles distant from our hearing this morning, in the county of Marion, along which the route of the canal will pass. I am here this morning to give you, if I could, some bit of perspective of a local governmental official of the effect of nondeauthorization of the canal or even maintenance of the status quo while the decision is studied further.

You are today visiting the first or second fastest growing State in the entire United States. I am here this morning representing Ocala, which is the fourth fastest growing metropolitan area in the entire country, according to the latest U.S. census report.

I heard several months ago a State leader tell me that with this unprecedented growth, these great numbers of people were coming to Florida and bringing their children and their pets and their furniture and their dreams, and I am here this morning to tell you as a local government official, I concur when he said they were also not bringing with them their roads or their sewers or their water supplies or their schools. And that is the point that I wish to talk with you about this morning very briefly.

And that is, the ability of local governments to respond to the planning needs of a rapidly growing State and indeed a rapidly growing area through which the barge canal will pass, because at the very crux of dealing with the myriad of problems I just referred to is the ability to properly plan for this growth that is coming to Florida, whether we would like it or not.

I would like to give you some specific examples as it deals with our own particular experience within the city of Ocala and the county of Marion. Several years ago, we were told by the State department of environmental regulation that our means of handling sewage effluent through the use of percolation ponds was no longer to be an acceptable means of allowing these effluents to go into the land and back into our water supply because primarily of the area of Marion County through which the barge canal will pass, is an area of karst topography, one characterized by chimneys, by tunnels, by underground water sources that at any one given point in time can give way and can cause, in our particular case, our percolation ponds to transmit our sewage effluent directly into the Florida aquifer.

I would submit to you in fact the barge canal would be a similar 110 mile long percolation pond. But the State department of environmental regulation has said to us this is an improper way of disposing of your sewage effluent. Now I am talking about the kind of growth that we are going to experience. We are a county of a population of about 150,000 and the statisticians tell us that in the next 15 years, by the year 2000, as part of Florida's growth our population will almost double in that period of time.

So we have to increase our sewage capacity. We are in the process of expanding our sewage plant capacity to 8½ million gallons a day, without the use of percolation ponds. A couple of years ago, we wrote the State of Florida, asking because there were these vast expanses of canal right-of-way running through our county, if this might not be a proper public purpose to utilize some of these lands to spray irrigate, to allow the slow percolation of these waters back into the aquifer.

The State of Florida wrote back and said that the barge canal is not deauthorized and we are not in a position to say that that would be an acceptable use if the canal at some future point in time can be built. I will submit to you had I written the department of natural resources and asked for that use of those lands for a passive park or for any other public use, the response probably would have been the same; that without deauthorization, we cannot plan for the future use of those lands.

So the city of Ocala spent several hundreds of thousands of dollars in looking at other ways of disposing of its sewage effluent, and we came upon a plan for a unique wetlands disposal which would in fact recharge an area of the Marshall Swamp which had been drying out over the years. We would basically pump our effluent across the barge canal property. One problem, the Corps of Engineers says that we have a standing injunction that says that you cannot—the city of Ocala—transmit your sewage effluent across and we cannot give you an easement to cross the barge canal property because we have this injunction and plus the barge canal is not deauthorized and it may someday be built.

What that means to the city of Ocala and its residents, if we are unable to (1) meet the time deadlines we presently have, is that we will have to secure an alternative route which will, in terms of dollars and cents, cost the citizens of Ocala an additional $3 million from the standpoint of additional capital outlay costs, and more importantly in this time tight budgetary times, an additional $1½ million because we will not be able to meet the time deadlines of the State grant for which we have applied and which we were granted.

I am not even suggesting that we may because of the time constraints cause our construction industry to come to a standstill because we will have no more sewage effluent capacity during this time this additional work is being done.

Other areas; we are, with our metropolitan planning organization looking at the expansion of our roadway system and looking at the increased traffic flow that must go east and west through our county. Are we to plan for a $9 million additional bridge over the proposed right-of-way of the Cross-Florida Barge Canal, or can we begin now planning for a $2 million bridge that would be at levels that would be more compatible with lower costs?

And finally, gentlemen, if I could just touch upon—and the question has been touched upon several times this morning with regard to the water supply. One of the richest resources that our area has is the fact that it is in fact a recharge area, not only for our area's water supply, but that of the bulk of south Florida.

We heard Ms. Tschinkel this morning talk about the contaminative effect of just a mere 1 gallon of gasoline into our water supply. Well in Marion County about 1 year ago, we had a minor gasoline spill through the leakage of a gasoline tank in the city of Belleview. The end result of that was the total contamination of the water supply—the city public water supply for that city, and for almost 1 year that city was on temporary or bottled water status, only to be placed back onto a regular water system when a new well field was completed just recently.

So I am submitting to you, from the standpoint of local government, from the standpoint of being able to plan for the intense growth that the State of Florida and more particularly the area through which this barge canal would pass, in order to properly plan, the Congress needs to move toward deauthorization at the present time, so we can begin the long-range planning process.

And finally, with regard to the quality of our water system. I would much rather—I think we are lucky that the barge canal has not been built up to this point. I think we are extremely fortunate to be able to rely upon the reason and the wisdom of Congress to make a reasoned decision as to whether or not to deauthorize this canal or not, so that myself or some successor in office does not have to come before some committee and ask if we can have bottled water for our 300,000 people another year.

Thank you for the opportunity of addressing the committee, sir.

Mr. Roe. I thank you, Mayor.

Mr. Bunton.

Mr. Bunton. Yes, sir. First of all, I would like to pinch hit for the city of Palatka. The vice mayor was here but he had to go back across the street and help run the paper mill, and he asked me to fill in for him.

They have written you a letter welcoming you to this community and strongly supporting the construction of the Cross-Florida Barge Canal and pointing out why, and I would like to submit their letter for the record.

Mr. Roe. With no objection, so ordered.

Mr. Bunton. You asked a question earlier, sir, which I feel in a position to answer. You asked a question was anything being done about hydropower along the canal. I was present at a conference in Atlanta some few years ago when the question came up on a survey by the Federal Energy Commission and the fact that no sites were recommended in Florida. In fact, five sites were at one time recommended and the Governor requested that all five be withdrawn and two of them were on the Cross-Florida Barge Canal. That is why there are none in Florida—the same Governor who was here today.

Last, but not least, I am executive director of a unit of local government, the Putnam County Development Authority, and we strongly support the continued study of the canal and its ultimate completion. I feel that I am as well qualified as many here who have held themselves up to be experts. I am past president of Harbor Waterways Associations; past director of the National Waterways Congress; past port director of the Putnam County Port Authority. I understand the chairman visited that port this morning.

You might be interested to know, sir, that it is in the black, and I do not know how we got it there, but everybody said it would not do anything once you did not build the canal. But we do have the St. Johns River Waterway and thank goodness for that. As the Corps of Engineers said earlier that is maintained as a 13-foot channel as far as Palatka and we are taking good advantage of it.

I would like to say we would take a lot more advantage of it if we could move what we are moving all the way across the State.

I have a prepared statement which essentially says that, and which sums up why this project is still a good project. I am usually challenged on one point by Mr. MacKay or others. When this original environmental and economic impact study was conducted, no coal-fired powerplants had been completed in the area. Since that time, Seminole Electric Cooperative has completed two 600-megawatt plants in this area, in the Palatka area, and they use about 10,000 tons of coal per day.

Florida Power & Light Co., further south on the central east coast has completed two more and the Jacksonville Electric Authority has two under construction in the Jacksonville area, on the north side. These power companies get most of their coal from the Middle West, Kentucky and Illinois. In the case of Seminole, they barge it as far as they can; that is, the end of the Gulf Intracoastal Waterway, and then transload it to rail to bring it to Palatka. I submit that this coal could be barged all the way at a great savings to the power users. This is feasible and possible with load line barges across the gulf and through a Cross-Florida Barge Canal without further transfer of cargoes. I have personally loaded river-size, that is 195 feet by 35 foot barges, which were load line design, on the St. Johns River, which were going to take cargoes into the open ocean and you can certainly do it across the gulf.

Now these power companies are not apt to step forward and publicly state that they want the barge canal for hauling coal. They are reluctant to alienate the railroads because they are somewhat at their mercy. Where water competition does not exist, the railroads are relatively free to set rail rates accordingly.

In summary, the Cross-Florida Barge Canal is a good project, it should not be deauthorized. Thank you very much. [Applause.]

Mr. Roe. We want to thank you all very much for your testimony. Are there any questions? The gentleman from Minnesota.

Mr. Stangeland. I do not believe I have any questions at this time. I think they have pretty well stated their case.

I guess maybe I would ask them the one question. In the event of deauthorization, the plan as I understand it is that the counties have the first chance to buy back the land that the counties contributed to the right-of-way?

Mrs. Allender. I beg your pardon, sir?

Mr. Stangeland. Did I understand that the counties have the first option to buy back the land in the event of deauthorization—the land that they contributed?

Mrs. Allender. Yes, but I think that special exception was made of the land in Putnam County.

Mr. Stangeland. But that is the State plan as of now?

Mr. Roe. Is that correct?

Mrs. Allender. Correct.

Mr. Roe. That was one of the State plans.

Mr. Bunton. Yes, sir, and it has been a part of the plan to repay the counties for their investment, plus interest, but that seems to be getting chewed up a little bit now at State government level.

Mrs. Allender. This is our——

Mr. Stangeland. I have no further questions.

Mr. Roe. The gentleman from Florida.

Mr. **Shaw**. Thank you, Mr. Chairman. I would like to address a question to Mrs. Allender. This has come up several times and this is the question of the use of the canal for defense purposes. What on earth would you use it for for defense purposes—our destroyers draw 19 feet. I cannot imagine anything but patrol boats being able to go through there. Could you clarify that?

Mrs. **Allender**. Well I think that many things can go through there. In the event of a grain embargo, food could be supplied. After all, we are within 90 miles of Cuba. And embargoes on goods coming into this country could happen. I do not think that we are so isolated, and I think the purpose for national defense is an inland waterway which—not just this section of the canal but in the surrounding—encompassing the full 26,000 miles.

Mr. **Shaw**. But it would appear that what you are talking about is not the transport of military hardware or ships, but simply avoiding the southern part of Florida and coming out of the gulf with some foodstuffs.

Mrs. **Allender**. Correct.

Mr. **Shaw**. I am glad to have clarification on that.

Mrs. **Allender**. In the transportation of—in the event of—we could move goods from one part of the United States to the other without going out of the Gulf where enemy vessels might be.

Mr. **Shaw**. I would like to also clarify one other thing that you brought up in your testimony, and there seems to be—looking at Marion County and Putnam County, it is like the Hatfields and McCoys as far as this particular issue. That message does come through loud and clear and I certainly recognize where we are still today.

But I would like to say one thing, that I do not know of any—I know that there are some people, and you mentioned Ms. Carr by name, and I do know that she is concerned and would like to see Lake Oklawaha drained. However, that is not the issue as far as deauthorization. It should be separated from it. I have seen the lake, I personally am on the side of those who want to preserve it. This is not the issue, there is no one—deauthorization has absolutely nothing to do with that lake or this legislation and I would like to put at rest that issue as far as this hearing, as far as the Congress is concerned and as far as the bill that Congressman MacKay has filed and that I have cosponsored. It is a red herring at this particular point. I am sure that all of us in the Congress recognize that is a local issue and has absolutely nothing to do with us.

If the good people of Florida want to keep it, as I would suspect they do want to keep it, that certainly is fine with the Congress of the United States.

Mrs. **Allender**. Mr. Chairman, could I——

Mr. **Shaw**. If you care to respond to that, please do.

Mr. **Roe**. You certainly can.

Mrs. **Allender**. I will be happy to. And very frankly, let me state that I do not mean to appear to be like the Hatfields and McCoys. I personally think Marjorie Carr is probably one of the greatest women that this State has ever known, and frankly campaigned for Mr. MacKay and for Governor Graham. It just happens that we disagree on this issue and battle must be done. That is just the way it is.

Mr. **Shaw**. Well I certainly was not suggesting——

Mrs. **Allender**. But the verbage that concerned me in this original amendment; not the one debated on the floor—was "pending further disposition of such facilities by Federal laws." I feel like that leaves the door open to future draining or future actions which could be taken at a later date. The same goes for the last amendment to the Florida statute. It lists retention of State-owned lands in the Oklawaha River Valley and that bothers me because I felt like it would be a good idea if it were taken out of this and transferred into State law, then we do not argue it as we argue the deauthorization.

Frankly, I would feel much happier and I do intend to accept whatever the economic study—as far as I am concerned, this is a final analysis and I just want all information before decisions are made. And I think that we should avail ourselves of this information.

I am not a very vindictive person. Once the battle is over, it is over and that is the way it is going to go. But I would like some assurance—actually I would like it written out that this reservoir is going to be left. I want it spelled out both in State and Federal—if we deauthorize that this dam will not be destroyed and that lake will not be drained.

I know that this has been a question for a long, long time and I guess my concern is that part of my respect for Marjorie Carr is that as long as she is alive the draining of that pool will probably be in question. I respect her for that, I think she is defending her position, but frankly I am trying to protect the position of my people, since it is a part of their livelihood.

Mr. **Shaw**. Well I think that is certainly a very good answer, but I can assure you as a cosponsor of that legislation that you referred to on the Federal level, of course Mr. MacKay as the principal author could certainly address that also. The language that you cited simply says that if it is deauthorized, something has to be done with the land. It was not referring to that lake, it was not referring to any particular dam, to any particular lock. It was just simply saying when you change your mind, when you change the legislation, you have got to take care of the assets that were taken during this period of time, and that is something, but I think that everyone who listened to the previous witnesses know that the idea is to maintain as much of that land as practical under public ownership, to clarify titles as may be necessary. And it does not appear to me that the overwhelming sentiment of the people in this part of Florida is for the preservation of the lake, and I doubt that you will ever see it drained.

Having, however, seen that river, the part that is left, the wild river, I would never have been one to have allowed this to go forward as far as it has gone. However, an important resource has been gained for this part of the country, which has gained a national reputation, which I feel should be retained.

But enough said about that. We are not debating that lake. We are not here to drain that lake and that has absolutely nothing to do with that.

Mrs. **Allender**. Mr. Chairman, could I ask, since he is the cosponsor of that bill, if you would consider not pushing for deauthorization until a plan can be drawn which would allow us to look at and object to the actual plan and the final disposition?

Mr. Roe. If the gentleman would yield, let me make a point I think is important to make here.

Again, what we are doing and very patiently with the greatest respect, is to listen to everyone's observations and views, and I think you make a very telling point. But may I suggest that we will write into the law, in the due course of the law, as a result of these, and we understand what your issue is.

Mrs. Allender. Thank you.

Mr. Shaw. Mr. Chairman, I would like to address the particular question. This thing has been studied, it is my opinion that enough studies have been made, it is my opinion from what I have seen and from what I have heard that the environmental questions are so severe, that under no circumstances should this program go forward, and I would not be one of those that said whatever the economic study comes up with I would support because I would not support this canal under any circumstances whatsoever. I think it is——

[Applause.]

Mr. Roe. The gentleman from Minnesota.

Mr. Stangeland. I just have one request. I am wondering if Mrs. Allender would provide for our file that land use.

Mrs. Allender. Oh, yes, sir.

Mr. Roe. The gentleman from Florida, Mr. MacKay.

Mr. MacKay. Mr. Chairman, I share your desire to go forward with it. I would just like to make one or two points for the purpose of clarity.

We have made every effort as clearly as can be done to say that it is not the intention to drain Lake Oklawaha. Now I do not know any other way we can say that that will satisfy Ms. Allender, and she and I have spent a great deal of time talking about it. Apparently you cannot say that in English in a way that she is going to feel comfortable with because what it says is it is going to stay there until Congress changes the law. And what that was meant to say is nobody in the State of Florida can do anything to take that decision away from the Congress.

Now she does not read it that way. She believes we are reserving the right to change our mind. And any Congress has the right to change anything that any previous Congress has done, just as any county commission can change anything any previous county commissioner has done, and I cannot say that any more clearly.

The other thing is that I think it would be necessary for me to say, Ms. Carr, who is sitting in the audience, does not agree with me on the point of retaining the lake. And I think in fairness to the people, the people of Putnam County should understand I have taken their side of that issue. I am against their position on the canal, I am for their position on the lake. And in all fairness, if you are going to be mad about one, you ought to be happy about the other. [Laughter.]

Mrs. Allender. I grant you that. [Applause.]

Mr. Roe. The gentleman from Florida, Mr. Chappell, do you have any questions?

Mr. Chappell. I think not at this point.

Mr. **Roe**. Let me suggest a point of view. I happen to think Mrs. Allender does make a point, and I think that the point which the lady is making, which is very well taken, is that we are here open minded. This member is not here with a predetermined decision at all. That is the purpose of the hearing, and hopefully when we get done with the hearing, we will have elicited considerable additional information which we did not have before, and particularly that information that comes directly from those people affected. I think that is what you are speaking to.

And what you are suggesting to the committee is to consider that there ought to be some consideration given. And both Mr. MacKay and Mr. Shaw made it clear, that as far as they are concerned, they have no intention of recommending anything that would drain the lake. But you would feel more comfortable, I understand that that would be nice to spell out so that there is no misunderstanding. Is that what you are trying to get across.

Mrs. **Allender**. Yes, sir; that is exactly it.

Mr. **Roe**. Well I think you have done a formidable job of making your point—just accept that.

Mrs. **Allender**. I prefer to plan and then act.

Mr. **Roe**. Well I have——

Mr. **Chappell**. May I ask Mr. Bunton one question?

Mr. **Roe**. Sure. The gentleman from Florida.

Mr. **Chappell**. Mr. Bunton, are you familiar with Lake Oklawaha?

Mr. **Bunton**. Somewhat, yes, sir.

Mr. **Chappell**. Are you familiar with the location of the waters of Lake Oklawaha, the portion between Marion County and Putnam County, roughly?

Mr. **Bunton**. I remember that at least part of it is in Marion County, about half of it.

Mr. **Chappell**. Is it not true that a little over half of it is in Putnam County—we are talking about Lake Oklawaha—and the rest of it is in Marion County?

Mr. **Bunton**. Yes.

Mr. **Chappell**. Now that means that there are some 6,000 to 7,000 acres at least that are now flooded that are now part of Lake Oklawaha that came to be titled in the canal authority through easements, is that not correct?

Mr. **Bunton**. Yes, I believe so.

Mr. **Chappell**. Whereas most of the land over the Marion County area came through some degree of fee simple title.

Now if the courts rule that—if this canal were deauthorized and we went into litigation, it seems to me the court would have to rule that certain of those properties that came into the Government, the canal authority, by easement would have to revert, or Congress would have to spend a considerable amount of money paying those people who lost their land based upon a transfer by easement—paying them the difference between that easement and what they would have received under fee simple title.

Now that land down there, you are again in the real estate business, are you not, Mr. Bunton?

Mr. **Bunton**. Very poorly, sir. I have a subdivision that does not sell.

Mr. **Chappell.** Well what do you mean very poorly? [Laughter.]

Mr. **Bunton.** That is my son that is successful, not me.

Mr. **Chappell.** It is true that the property down there is of considerable value, is what I am saying.

Mr. **Bunton.** Well Mr. Congressman, when I first went down the Oklawaha, I saw the old subdivisions which had been created along the so-called scenic wild Oklawaha and they were really starting to screw it up, if you will pardon the expression. That was before we dammed it up.

Mr. **Chappell.** Most of them were dumps, were they not?

Mr. **Bunton.** Yes, sir.

Mr. **Chappell.** Stuff that was trashing the river.

Mr. **Bunton.** Just that.

Mr. **Chappell.** Now you are an engineer, are you not?

Mr. **Bunton.** Yes, sir.

Mr. **Chappell.** Do not tell me you are a poor one. You have had experience with this canal over a long period of time. Is there any present access between the Oklawaha River and the St. Johns River say beyond the lock at Buckman—the Buckman lock?

Mr. **Bunton.** Oh, sure, the water still dumps over the dam and runs right on down the Oklawaha River.

Mr. **Chappell.** I understand that, but it is kind of difficult to put a motorboat over that dam, is it not?

Mr. **Bunton.** It is somewhat difficult.

Mr. **Chappell.** It might cause you to have a bad day.

Mr. **Bunton.** Yes.

Mr. **Chappell.** So the point is, the dam is across the Oklawaha River and there is no access along the old route, is that correct?

Mr. **Bunton.** There is no boat access, that is right.

Mr. **Chappell.** So that the only boat access that is between the historical St. Johns and the Oklawaha, as it existed for God knows how many millions of years——

Mr. **Bunton.** Is through the locks.

Mr. **Chappell.** There is no other access except through that lock, is that correct?

Mr. **Bunton.** Correct.

Mr. **Chappell.** Thank you very much.

Mr. **Bunton.** Mr. Chairman, there was one small point I wanted to make as a result of Congressman Shaw's remarks and Mrs. Allender's. The safest way I know of to protect Lake Oklawaha is to not deauthorize.

Thank you very much.

Mr. **Roe.** All right. Let me ask this question because I think it has not been answered but it has been alluded to.

As I understand it, the counties contributed somewhere in the order of magnitude of $13 million originally toward the acquisition to the canal authority to acquire the basic lands involved. Is that correct?

Mrs. **Allender.** $9 million.

Mr. **Bunton.** Specifically to the canal navigation district, which was created as a taxing district.

Mr. **Roe.** Right.

Mr. **Bunton.** They collected the money.

Mr. **Roe**. So then those funds were utilized over the years to acquire the different rights of ways and shades of title and so forth to the lands involved.

I think the point was made by some members here is this: What would be the disposition of the counties, their feelings at this point, if the Congress decided that there was a legitimate contribution made, in contrast to the point of view that Congress, for the people of the United States, has also contributed $70 million or thereabouts for construction and so forth, and for some acquisition involved. Are the counties looking, either from the Federal Government or the State government, to be reimbursed for the investments they have made in that land and the funding that was provided?

Mrs. **Allender**. Under Florida statute of the Florida State Law, 79-167, there was a commitment by the State of Florida to pay the counties—and this was given in exchange for the counties supporting deauthorization—as an incentive, the State of Florida would pay the counties their share, the share collected, plus I believe it was 4 percent, up to a breaking point, 5 percent up to a breaking point, and then 8 percent interest on their money from that point on.

Mr. **Roe**. Is it reasonable to say that in trying to work out a remedy that would make the counties whole financially, that there has been a partial commitment? Is that in a recent law, by the way?

Mrs. **Allender**. Well——

Mr. **Mackroth**. 1979.

Mrs. **Allender**. In 1979. And I have to say that the amendment which was done and became effective July 1, 1984, which turned over, although there is some doubt as to the validity or the legality of the law, which a portion of it is entered in the statutes and a portion is not—nevertheless, it was turned over by the navigation district to the Department of Natural Resources, at which time they drew this plan which you see, which attempts to rearrange the commitments if you would that they made to the counties for payment of those lands and to change the formula by which they would pay us.

Mr. **Roe**. Let me tell you what is posing that question. If a decision were made by the Congress, one of many options, that we would come back and say that in the national interest—in Florida's interest first and in the national interest, that the land areas that have been acquired ought to be retained in public ownership. I think that point has been made by many witnesses from the very beginning. Certain commitments were made to the counties and their participation over a series of documents and laws that have been passed by the State of Florida with the intent that ultimately the counties would be reimbursed for the expenditures they have made, with some type of interest, reasonable or whatever, that would add to those figures.

And I would assume that if that commitment were carried out, that those funds would go back to the respective counties. Is that a reasonable point to make?

Mrs. **Allender**. Up until the passage of the amendment——

Mr. **Roe**. Well, let us discard that, let us say that was the intent—am I right on the intent?

Mrs. **Allender**. Yes, sir.

Mr. **Mackroth**. Yes, sir.

Mrs. **Allender**. The distribution formula is all at this point that is in question really.

Mr. **Mackroth**. And that total—Mr. Chairman, that total amount today, the 9 million, is approximately 34 million.

Mr. **Roe**. OK. So, what we are really saying is that if the land were to be put together in such a way that it was held in public ownership, however that was done, and the counties were to be reimbursed for their original contributory share, under the intent of the State of Florida, at least manifested in some laws and some public position they have taken, in order to make the counties whole, it would cost somewhere in the neighborhood of $34 million.

In other words, if the Congress were to consider that, that would be a reasonable approach to make the counties whole and at the same time hold that land in public ownership. Is that a reasonable statement to make?

Mr. **Mackroth**. Yes, sir.

Mr. **Roe**. And that would solve that part of the economic problem, provided the land was held in public ownership. OK. Any further questions on that?

The gentleman from Florida.

Mr. **MacKay**. I just want to say this for the record. The distribution formula has not, to my knowledge, been changed. There was a statute introduced this last year, in 1985, it was introduced and I believe it passed the Florida Senate but it did not become law. So, the distribution formula has not been changed. There is no sinister plot going on that I am aware of other than the fact that the Senate Natural Resources Committee took the position that since the counties had put up 9 million and the State had put up some I believe perhaps 5 or 6 million, that the moneys coming from the sale of assets would be distributed prorata as they came in. The counties would get their share and the State. The State did not want to get in the position where the land might be sold and not raise the total amount, and so they said the counties will take their share of the risk as the State will.

That is not law of Florida. The original distribution formula still is law.

Mr. **Mackroth**. That is right.

Mr. **Roe**. If the gentleman will yield, let me tell you what I am trying to get to, so we can get it on the record.

It seems to me that there is one point that has been made rather clear by almost everyone who has testified: You folks have said look, we feel there ought to be a reasonable time delay—whether we agree with that or not is immaterial—because the jury, so to speak, is still out. If you have got a study going that is going to be an economical evaluation and an environmental study, they would be completed and then the decisions made. I believe Mr. Mackroth made the point and I think Ms. Allender did too, that if on that determination and economically speaking, it was not a sound move, we will abide by the facts that are before us and make a determination. That is No. 1.

No. 2, if we come back and say by the same token, there has been an investment that we made in good faith, we the counties and their political subdivisions together with the State of Florida agree to move this project ahead over a long period of years. There seems to be a sticking point that the return of those funds to the counties and the State in a proportionate share, would be based upon the liquidation of the assets; namely, surplus lands and so forth. But that has not been determined from the point of view are there any surplus lands.

I think we developed this morning an observation that everyone seemed to agree with, or at least appeared to at the time, that one, the fact that this has been going on for such a long period of time is a plus side of the issue, that this great swath of land across the northern part of Florida has been preserved simply because of inaction, which some people have said, but at any rate it has been done.

No. 3, we are coming back and saying that there were areas of concern. Mr. Bunton spoke to the issue on hydropower, but there also is a vast interest in the water resources involved, and its impact on both the northern and therefore the southern part of Florida, because of the fact of the integrity of this swath of land and what has been done. Whether people believe the dam should be there or not is immaterial. Nevertheless it is there, and those are the facts before us. So, that the hidden asset that comes back potentially to the State of Florida, depending on what decisions are made, is an enormous recognition of the import of that water supply, which I think Mayor Rubinas made very clear. That would have a bearing upon your infrastructure and what is going to happen as you face this burgeoning growth.

Is that not a reasonable point to make?

Therefore, I am trying to get it on the record that there may be an alternative solution to dissipating the assets because the assets take on a different form because of the total integration of these lands across the State. And to sell off a piece here and to sell off a piece there to try to accommodate a commitment that was made in reimbursement to the counties could do violence to what we are trying to achieve in the bigger picture; namely, the impact of those water resources in the particular northern part of Florida. I think that is a reasonable point to make.

But nevertheless, having said that, and maybe there should be some kind of thought process that develops that would look toward the overall solution toward reimbursing in good faith the investment that the counties have made, particularly if they are to lose control of that land, if it is held in public ownership. Is that a reasonable thought process to follow, do you think? Do you understand what I am saying?

[No response.]

Mr. ROE. In other words, if Congress were to blot out the interest of the counties at this point, there would be no reimbursement if the Congress decided, well we are not going to allow those assets to be dissipated because they have not got to the nitty-gritty at that point yet. There are all kinds of formulas, you know, who gets what back from whom and all that sort of thing. But I do not think that we have looked at it in an overall basis as far as Florida and the Federal Government is concerned, in saying here is a great national treasure that has been created regardless of all the problems. It is there, and it goes from one side of Florida, from the gulf, clear over to the other side. To plunder that piece by piece because we try to settle some financial commitment that some people are hung up on, you would lose the baby with the bathwater. You could lose the entire value that has been achieved.

And that has a different value, not in individual pieces because all the pieces have been put together. Therefore, there is an asset there that has to be protected and a design plan has to be made that is not going to destroy that. But by the same token, the counties should get some reimbursement. Is that a reasonable point to make?

Mr. Mackroth. Very. Yes, sir.

Mrs. Allender. It is an extremely reasonable point to make and at this point, gentlemen, I would like to clarify something. My comments before were not comments representing the county commission, and I am sorry I forgot to read the commission's resolution.

Those were comments coming from me as a person, my opinion, my position as trustee on the Cross-Florida Barge Canal Counties Association and on the Industrial Authority and other things besides our county commission.

Could I please read the resolution that is the position of our county commission?

Mr. Roe. Of course.

Mrs. Allender. And I would like to—the reason I made that point is I have to give you a personal opinion because we were not able to meet before you came to our community.

I, frankly, think that in the interest of conservation, whether the canal is built or not built, that those lands should be preserved. Now, at the risk of being run out of town on a rail, I think——

Mr. Roe. To make room for others.

Mrs. Allender [continuing]. I would have to say that I do not think that that—the good would be for the entire State of Florida, and I do not think that the burden should be borne by the taxpayers alone of those six counties. However, I certainly would be willing to vote to contribute our share of whatever the cost of that was, to try to maintain those lands for conservation lands. To be really honest, I hate to see them disbursed because we are going to need those lands for environmental and conservation concerns. I firmly believe that.

Now, you understand that is my one vote on the commission, so I would have to qualify that.

At this point in time, if you would bear with me, I would like to read the resolution from the commission.

> Whereas neither the Corps nor the courts have been able to substantiate the charges of environmental harm which have been made repeatedly by a small handful of extremists;
>
> Whereas, the Putnam County Board of County Commissioners feels the best interests of the citizens of the United States, as well as Putnam County, will not be served by destruction of the already completed portion of the Cross Florida Barge Canal and the existing Lake Oklawaha;
>
> Whereas, Lake Oklawaha has a great economic and recreational impact upon all the citizens of our county and should remain in its present state;

Now, therefore, be it resolved by Putnam County Board of County Commissioners that each member of Congress vote against any amendment to H.R. 3678, other than those recommended by the Committee on Public Works and Transportation.

This was the last resolution adopted by our county and it was suggested by our administrator that that be read into the record, as it was our last position.

Mr. **Roe**. No objection, so ordered.

I want to thank the witnesses very much.

Yes, sir, Mayor Rubinas.

Mayor **Rubinas**. If I may, Mr. Chairman, just correct my intention that I intended—my reference to the wisdom of Congress in reacting to this question was that I felt the wisdom of Congress in the digestion of those studies already in place, would allow it to make a decision on immediate deauthorization without benefit of further study. I just wanted to the record to reflect that.

Mr. **Roe**. Well, I appreciate that, mayor.

Let me just make one observation for the witnesses and for those that are here. We keep using the word "deauthorization" as being the magical solution, and I think what has already generated this morning is that there are codicils that must be added to that deauthorization. It has to take such a form that it achieves what Florida is attempting to achieve. We cannot just say we will deauthorize it, that creates a other severe problems. If it is decided by the Congress to go in that direction, it ought to be in the proper form.

Again, I want to thank you very much for being with us. You have been very cooperative and very helpful and we appreciate the information you have provided.

[The prepared statements of Bonnie Allender and Raymond B. Bunton follows:]

RESOLUTION

WHEREAS, neither the Corps nor the Courts have been able to substantiate the charges of environmental harm which have been made repeatedly by a small handful of extremists;

WHEREAS, the Putnam County Board of County Commissioners feels the best interests of the citizens of the United States as well as Putnam County will not be served by destruction of the already completed portion of the Cross Florida Barge Canal and the existing Lake Oklawaha,

WHEREAS, Lake Oklawaha has a great economic and recreational impact upon all the citizens of our county and should remain in its present state,

NOW, THEREFORE BE IT RESOLVED by Putnam County Board of County Commissioners that each member of Congress vote against any amendment to HR3678 other than those recommended by the committee on Public Works and Transportation.

DONE, ORDERED, AND ADOPTED this 12th day of June, 1984.

BOARD OF COUNTY COMMISSIONERS,
PUTNAM COUNTY, FLORIDA

By
Chairman

ATTEST:
Clerk of Circuit Court

STATE OF FLORIDA)
)   AFFIDAVIT
COUNTY OF DUVAL)

BEFORE ME, the undersigned authority, personally appeared Dr. Philip E. LaMoreaux, who, after being duly sworn, deposed and stated as follows:

My name is Philip E. LaMoreaux. I live in Tuscaloosa, Alabama and am the State Geologist - Oil and Gas Supervisor for the State of Alabama, and have held that position since May 1961. I also am a part-time professor in the Department of Geology, University of Alabama and undertake private consulting in the field of ground water hydrology.

I received my B.S. Degree from Denison University in Ohio, my M.A. from the University of Alabama, and recently received an Honorary Doctorate from Denison University.

I worked with the U. S. Geological Survey from 1941 to 1961, including assignments in Tuscaloosa and ultimate service in Washington, D. C. as Chief of the U. S. Geological Survey's Ground Water Branch.

I maintain memberships in numerous professional geological organizations, national as well as international in scope. These include: American Association of Petroleum Geology, American Geophysical Union, American Institute of Professional Geologists, Geological Society of America, International Association of Scientific Hydrologists, International Water Resources Association, and International Association of Hydrology. I presently am President of the American Geological Institute and a Past President of the Association of American State Geologists.

I have worked in overseas areas as a consultant for the Food and Agriculture Organization of the United Nations, plus some direct foreign Governmental consultations and some overseas work under the U. S. Geological Survey. I presently an Chairman of an international committee, affiliated with the United Nations, studying the geohydrology of limestone terrains in conjunction with the International Hydrological Decade.

As a member of the U. S. Geological Survey, operating in the Southeastern U.S., I long have been acquainted with the proposed route and general design of the Cross-Florida Barge Canal. Once construction commenced, I served as a consultant to the Corps of Engineers in establishing the basic ground water monitoring wells and gaging stations from which the U. S. Geological Survey obtained its data for compiling the Geohydrology of the Cross-Florida Barge Canal with Special Reference to the Ocala Vicinity, authored by Glen Faulkner. In this consultant capacity I have received and reviewed various Geological Survey reports dealing with the Barge Canal's effects upon the ground water resources of Florida.

Based upon my studies and personal knowledge, it is my professional scientific opinion that:

A. The physical effects of the Cross-Florida Barge Canal upon the ground water resources of Florida are limited to a narrow belt in the general order of five miles either side of the Canal route; the magnitude of these effects gradually changes from zero, at the outer edges of the belt, up to several feet at the actual edge of the Canal channel.

B. The Barge Canal has no effect upon either the ground water or surface water regimen of South Florida, nor those of North Florida; its impacts upon Central Florida are limited to those mentioned in "A" above.

C. The Barge Canal poses no significant threat to the Floridan aquifer, to Rainbow Springs, nor to Silver Springs, provided the project be constructed and operated as planned, using proven and available techniques.

D. The scope of investigations and techniques of compiling data, to date, have provided competent information upon which to base overall conclusions and to formulate general design criteria for constructing and operating the project; but as construction proceeds, continuing surveillance might indicate some modifications in operating procedures or design details.

I have reduced my studies of geohydrology of the Cross-Florida Barge Canal project to a simplified summary, couched in layman's language so as to facilitate understanding by individuals lacking technical training in the field of geohydrology. I have attached a copy hereto as Appendix "A".

S/ ______________________
DR. PHILIP E. LAMOREAUX

SWORN TO AND SUBSCRIBED BEFORE ME, this 1st day of December, 1972, in the County and State aforementioned.

S/ ______________________
Notary Public, State of Florida at
Large. My Commission expires
April 25, 1973.

Prepared by Philip E. LaMoreaux, Consulting Hydrogeologist,
Tuscaloosa, Alabama

FILE COPY
2869

ENROLLED

CS/HB 141, Third Engrossed

AS PASSED BY THE 1979 LEGISLATURE

A bill to be entitled

An act relating to the Cross Florida Barge Canal; transferring the Canal Authority; [illegible] the Cross Florida Barge Canal Trust Fund; transferring state lands to an expanded Ocala National Forest; authorizing acquisition of lands and granting the power of eminent domain for public purposes; reserving road rights-of-way; retaining state lands at Lake Rousseau and the Withlacoochee River; authorizing acquisition of lands and granting the power of eminent domain for public purposes; providing for an interagency committee on restoration of the Withlacoochee River; prohibiting expenditures for the completion of the canal; creating a management plan; disposing of surplus lands; refunding money to the counties; establishing a contingent appropriation from the General Revenue Fund; establishing an advisory committee for the management plan; conducting public hearings; vesting title, easements, and interests in land with the Board of Trustees of the Internal Improvement Trust Fund; and providing for certain uses of said lands granting power to make contracts; authorizing agreements with the Federal Government for restoration of the Lake Rousseau area, Withlacoochee River, and portions of the Cross Florida Barge Canal; adding subsection (4) to s. 20.25, Florida Statutes, transferring the

141

6.15.
Marjorie!
The people
of Florida are
[illegible]
[illegible] 17 years
Thank you
Bob Graham

CS/HB 141, Third Engrossed

Canal Authority to the Department of Natural Resources; disposing of Cross Florida Canal Navigation District property and funds; providing for liberal construction; repealing parts I and II of chapter 374, Florida Statutes, which creates the Canal Authority and the navigation taxing districts; providing for severability; providing for an appropriation; providing contract authority between the canal authority and the Department of Natural Resources for the preparation of the management plan prior to the effective date of the act; providing a conditional effective date.

Be It Enacted by the Legislature of the State of Florida:

Section 1. Transfer of Canal Authority.--The Canal Authority of the State of Florida is transferred by a type three transfer, as defined in s. 20.06(3), Florida Statutes, to the Department of Natural Resources and assigned to the Division of Resource Management. All funds of the Canal Authority shall be transferred to and maintained in a trust fund account designated as the Cross Florida Barge Canal Trust Fund administered by the Department of Natural Resources.

Section 2. Transfer of state-owned lands in the Oklawaha River and Valley to the Federal Government.--

(1) It is the intent of the Legislature to conserve and protect the natural resources and scenic beauty of the Oklawaha River and Valley bounding the Ocala National Forest in Putnam and Marion Counties. It is the finding of the Legislature that said Oklawaha River and Valley bounding the

Ocala National Forest are areas containing and having a 1.27
significant impact upon environmental and recreational
resources of statewide importance and that public ownership
and access to such areas are necessary and desirable to 1.28
protect the health, welfare, safety, and quality of life of
the residents of this state and to implement s. 7 of Art. II 1.29
of the State Constitution. It is further the finding of the 1.30
Legislature that ownership and control of the aforesaid lands
by the Federal Government as part of the Ocala National Forest 1.30/1
will properly protect and conserve the natural resources and
scenic beauty of Florida, enhance recreational opportunities, 1.30/2
and be in the public interest.

(2) The Department of Natural Resources is authorized 1.30/3
and directed to transfer ownership of all lands or interests
in lands owned by the Board of Trustees of the Internal 1.34
Improvement Trust Fund, including all fee and less than fee
interests in lands previously owned by the Canal Authority, 1.35
contained within the extended boundary of the Ocala National
Forest as shown on the map dated July 1978 on file with the 1.36
Chief of the Forest Service, Department of Agriculture,
Washington, District of Columbia, and available to the public 1.36/1
in the office of the appropriate United States regional
forester, forest supervisor, forest ranger, and in the office 1.36/2
of the Department of Natural Resources, to the United States
Department of Agriculture for the purpose of inclusion in the 1.36/3
Ocala National Forest. The Department of Natural Resources 1.36/4
shall make such conveyance for payment of no less than the
fair market value for such lands as authorized by the head of 1.36/5
the Department of Natural Resources. Any conveyance by the
Department of Natural Resources to the United States 1.36/6
Department of Agriculture or other Federal Department or

Rodman

Agency, shall include the lands which comprise the Rodman Dam and Rodman Reservoir, also known as Lake Ocklawaha, only if the Governor and Florida Cabinet, as the head of the Department of Natural Resources, shall determine that such conveyance is consistent with the conclusions of the Land Management Plan required herein. If such plan shall provide for the continued use and maintenance of the Lake Ocklawaha lands for recreational and scientific purposes, any deed conveying such lands shall contain appropriate restrictions assuring such continued use.

(3) The Governor and Cabinet as the head of the Department of Natural Resources are empowered and authorized to acquire by purchase, exchange of other state lands, or by the exercise of the power of eminent domain the fee title to lands acquired in less than fee title along the canal route within the area described in subsection (2). The Legislature finds that such exercise of the power of eminent domain to accomplish the purposes of this section is necessary and for a public purpose. Such power of eminent domain shall be exercised pursuant to the provisions of chapter 73, Florida Statutes.

(4) Lands transferred pursuant to this section by the Department of Natural Resources may reserve existing road rights-of-way.

Section 3. Retention of state-owned lands in and around Lake Rousseau, and the Cross Florida Barge Canal right-of-way from Lake Rousseau west to the Withlacoochee River.--

(1) It is the intent of the Legislature to conserve, protect, and maintain the natural resources, recreation values, and water management capabilities of Lake Rousseau and the Withlacoochee River. It is the finding of the Legislature

that said lands and waters are areas containing and having a significant impact on environmental and recreational resources of statewide importance and that public ownership and access to such areas are necessary and desirable to protect the health, welfare, safety, and quality of life of the residents of this state and to implement s. 7, Art. II of the State Constitution. It is further the finding of the Legislature that retention of ownership and control of the above lands by the state will properly protect and conserve the natural resources of Florida, enhance recreational opportunities, and be in the public interest.

(2) The Department of Natural Resources is authorized and directed to retain ownership of and maintain all lands or interests in land owned by the Board of Trustees of the Internal Improvement Trust Fund including all fee and less than fee interests in lands previously owned by the Canal Authority in Lake Rousseau and the Cross Florida Barge Canal right-of-way from Lake Rousseau at U.S. Highway 41 west to and including the Withlacoochee River.

(3) The Governor and Cabinet as head of the Department of Natural Resources are empowered, authorized, and directed to acquire by purchase, exchange of other state lands, or by the exercise of the power of eminent domain the fee title to any less than fee title interest in land owned by the Board of Trustees of the Internal Improvement Trust Fund, including interests previously owned by the Canal Authority, as described in subsection (2). The Legislature finds that such exercise of the power of eminent domain to accomplish the purposes of this section is necessary and for a public purpose. Such power of eminent domain shall be exercised pursuant to the provisions of chapter 73, Florida Statutes.

CODING: Words in struck through type are deletions from existing law; words underlined are additions.

(4) The Department of Natural Resources shall recommend to the Governor and Cabinet the establishment of an interagency advisory committee to report to the department regarding restoration and management of the Withlacoochee River, with special emphasis on control of saltwater intrusion.

Section 4. Additional powers and duties of the Department of Natural Resources.--

(1) The Department of Natural Resources shall make no further expenditures for the purpose of acquiring land for constructing, operating, or promoting a canal across the peninsula of Florida, connecting the waters of the Atlantic Ocean with the waters of the Gulf of Mexico, via the St. Johns River.

(2) It is declared to be in the public interest that the department shall do and is hereby authorized to do any and all things, and incur and pay from the Cross Florida Barge Canal Trust Fund, for the public purposes described herein, any and all expenses, necessary, convenient, and proper, to:

(a) Develop a management plan to be submitted to the Legislature no later than 1 year from the effective date of this act for the retention or disposition of lands acquired for the Cross Florida Barge Canal and not disposed of by this act, which plan shall reflect a consideration of disposition alternatives for all lands in fee or less than fee owned by the Board of Trustees of the Internal Improvement Trust Fund, including those previously owned by the Canal Authority and the U.S. Army Corps of Engineers, from the western boundary of the expanded Ocala National Forest west to U.S. Highway 41, the Cross Florida Barge Canal right-of-way from the Withlacoochee River west to the Gulf of Mexico, and from the eastern boundary of the expanded Ocala National Forest, as depicted by the map referred to in subsection (2) of section 2, east to the St. Johns River. Such disposition alternatives will include possible retention by any interested state agency for specific public purposes, and declaration of lands not to be retained as surplus lands to be disposed of pursuant to paragraphs (d), (e), or (f). The management plan shall also address any remedial measures necessary to correct any environmental or economic damages caused by works constructed as a part of or as a result of the uncompleted sections of the Cross Florida Barge Canal.

(b) Develop a management plan for the lands comprising the Rodman Dam and Rodman Reservoir, also known as Lake Ocklawaha identifying the recreational and scientific management options which are most environmentally desirable and cost-effective. Such management plan shall contain a specific determination regarding the continued maintenance of the Rodman Dam and Reservoir (Lake Ocklawaha) or the drainage of the reservoir and restoration of the area to its former natural state, as the case may be.

(c) Operate and maintain existing lands and interests in lands, appurtenances, structures, and facilities until further disposition is directed by the Legislature pursuant to the management plan.

(d) Offer any land declared surplus, at current appraised value, to only the original owner from whom the Canal Authority of the State of Florida or the U.S. Army Corps of Engineers acquired the land but not to his heirs or assigns or any other person. The department shall offer and is authorized to reconvey, for no consideration, any donated land declared surplus to only the original donor or his heirs but not his assigns or any other person. These offers shall be made by public advertisement in not less than three newspapers of general circulation within the area of the canal route, one of which shall be a newspaper in the county where the lands declared surplus are located. These offers shall be valid for 1 calendar year from the date the management plan is adopted by the Legislature.

(e) Extend the second right of refusal to counties in which the surplus land lies for acquisition for specific public purposes with any such sale price at current appraised value charged against the dollar figure, including interest, of the repayment to be made to that county.

(f) Offer surplus lands not purchased or transferred under (c) or (d) to the highest bidder at public sale. Such surplus lands and the public sale shall be described and advertised in a newspaper of general circulation within the county in which the lands are located not less than 14 calendar days prior to the date on which the public sale is to be held. The current appraised value of such surplus lands will be the minimum acceptable bid.

(g) Refund to the counties of the Cross Florida Canal Navigation District funds derived from the conveyance of lands of the project to the Federal Government or any agency thereof, pursuant to section 2, and from the sales of surplus lands pursuant to this section. Such refunds shall be in proportion to the ad valorem tax share paid to the Cross Florida Canal Navigation District by the respective counties. Refunds to the counties shall include interest on the amounts from the time of their payment by the counties to the date of repayment pursuant to this act. Interest to be refunded to the counties shall be compounded annually at the following

rates 1937 1950, 4 percent; 1951 - 1960, 5 percent; 1961 - 1.36/91
1970, 6 percent; 1971 - 1975, 7 percent; 1976 - refund date, 8
percent. In computing interest, amounts already repaid to the 1.36/92
counties shall not be subject to further assessments of
interest. Any partial repayments provided to the counties 1.36/93
under this act shall be considered as contributing to the
total repayment owed to the counties. Should the funds 1.36/95
generated by conveyance to the Federal Government and sales of
surplus lands be more than sufficient to repay said counties 1.36/96
in accordance with this section, such excess funds shall be
deposited in the Cross Florida Barge Canal Trust Fund. In no 1.36/97
case shall General Revenue funds be used to repay interest
owed to the counties.

(h) Establish an advisory committee to report to the 2.0/1
department regarding the development of the management plan. 2.0/2
This committee shall be composed of one representative from 2.0/3
each of the following: Department of Natural Resources,
Department of Environmental Regulation, Game and Fresh Water 2.0/4
Fish Commission, Department of Transportation, Department of
Administration - Division of State Planning, Southwest Florida 2.0/5
Water Management District, St. Johns Water Management
District, Duval County, Clay County, Putnam County, Marion 2.0/6
County, Levy County, Citrus County, and four members of the
public at large appointed by the Governor and Cabinet. The 2.0/7
department shall conduct public hearings to receive comments
and recommendations as to the disposition of lands under the 2.0/8
management plan.

(i) Carry out the purposes of this act. 2.0/9

(j) The department shall seek and utilize federal 2.0/10
funds and enter into agreements with the Federal Government or
any agency thereof to effectuate the purposes of this act. 2.0/11

Section 5. Title, easements, and interests in lands: 2.0/11
tax exemption.--Fee title, easements, and other interests in 2.0/13
all lands held by the Canal Authority shall be transferred to
the Department of Natural Resources and shall vest in the
Board of Trustees of the Internal Improvement Trust Fund. 2.0/14
Such title, easements, and other interests in land shall be 2.0/15
maintained in the Board of Trustees pending transfer pursuant 2.0/16
to section 2 or pending legislative direction as to
disposition pursuant to subsection (2)(a) of section 4 and 2.0/17
shall not revert. The Trustees shall utilize such lands or 2.0/18
interests in lands pending said disposition for recreation or
water management, or other purposes authorized to be performed 2.0/19
by water management districts pursuant to s. 373.139, which
uses the legislature finds to be necessary and for a public 2.0/20
purpose. Such lands shall be exempt from taxation. 2.0/21

Section 6. Contracts.--The Department of Natural 2.0/22
Resources shall have the power and authority to enter into any 2.0/23
and all contracts necessary or convenient to the exercise of
any of the powers granted to the department by this act. The 2.0/24
department is authorized to assign, transfer, and convey to
the United States, or to any appropriate agency thereof, such 2.0/25
assets, franchises and property, or interests therein, of the 2.0/26
department, including lands, easements, and rights-of-way
acquired by the state and to accept moneys for the same as may 2.0/27
be necessary or convenient to the exercise of such powers
consistent with this act. The department is authorized to 2.0/29
receive by dedication, grant, or transfer any fee or less than
fee lands owned by the U.S. Army Corps of Engineers. The 2.0/31
department is authorized to enter into agreements with the
Federal Government for restoration of areas and/or receipt of 2.0/32
funds for restoration of areas in and around Lake Rousseau,

the Cross Florida Barge Canal right-of-way from Lake Rousseau
to the Withlacoochee River, the Withlacoochee River, and the 2.0/33
Cross Florida Barge Canal right-of-way from the eastern
boundary of the expanded Ocala National Forest to the St. 2.0/34
Johns River.

Section 7. Subsection (4) is added to section 20.25, 2.0/34
Florida Statutes, to read: 2.0/35

20.25 Department of Natural Resources.--There is 2.0/35
created a Department of Natural Resources. 2.0/36

(4) The Canal Authority of Florida, created under part 1:lus
I of chapter 374, is transferred by a type three transfer to 2.0/37
the Department of Natural Resources and assigned to the
Divison of Resource Management.

Section 8. Cross Florida Canal Navigation District; 2.0/38
disposition of property and funds.--All property of the Cross
Florida Canal Navigation District is hereby transferred to the 2.0/39
Department of Natural Resources. All funds remaining in any 2.0/40
account of the district and not legally obligated on the
effective date of this act shall be transferred to the 2.0/41
Department of Natural Resources, such funds to be included
under the management plan repayment provisions pursuant to 2.0/42
subsection (2)(f) of section 4.

Section 9. Upon repayment to the counties of the Cross 2.0/43
Florida Canal Navigation District, as specified in this act, 2.0/44
any funds derived from the management or disposition of lands
of the Cross Florida Barge Canal Project will be deposited in 2.0/45
the Cross Florida Barge Canal Trust Fund.

Section 10. Liberal construction of act.--It is 2.0/45
intended that the provisions of this act shall be liberally 2.0/46
construed for accomplishing the work authorized and provided
for or intended to be provided for by this act, and when 2.0/47

strict construction would result in the defeat of the
accomplishment of any part of the work authorized by this act, 2.0/46
and a liberal construction would permit or assist in the
accomplishment thereof, the liberal construction shall be 2.0/47
chosen.

Section 11. This act shall not be construed to 2.0/49
abrogate or impair any contractual agreement entered into by 2.0/50
the Canal Authority or the Board of Commissioners of the Cross
Florida Canal Navigation District. 2.0/51

Section 12. Parts I and II of chapter 374, Florida 2.0/51
Statutes, consisting of sections 374.011, 374.021, 374.031, 2.0/52
374.041, 374.051, 374.061, 374.071, 374.081, 374.091, 374.101,
374.111, 374.122, 374.132, 374.141, 374.151, 374.161, 374.171, 2.0/53
374.181, 374.301, 374.311, 374.321, 374.331, 374.341, 374.351,
374.361, 374.391, 374.401, 374.411, 374.421, 374.431, 374.441, 2.0/54
374.451, 374.461, 374.471, 374.481, 374.491, 374.511, and
374.521, Florida Statutes, and section 374.371, Florida
Statutes, as amended by chapter 77-104, Laws of Florida, and 2.0/55
section 374.501, Florida Statutes, as amended by chapter 77-
102, Laws of Florida, are hereby repealed. 2.0/57

Section 13. If any provision of this act or the 2.0/57
application thereof to any person or circumstance is held 2.0/58
invalid, it is the legislative intent that the invalidity
shall not affect other provisions or applications of the act 2.0/59
which can be given effect without the invalid provision or
application, and to this end the provisions of this act are 2.0/60
declared severable.

Section 14. Upon deauthorization by Congress, there 2.0/60
shall be appropriated $9,340,720 for the purpose of repaying 2.0/61
to each county of the Cross Florida Canal Navigation District

1-11

that amount of principal which it contributed. The accrual of 2.0/62
interest shall cease upon payment of the $9,340,720 principal.

Section 15. The Canal Authority is authorized to enter 2.0/63
into a contract with the Department of Natural Resources for 2.0/64
the development of the management plans required by Section 4,
subsection 2, paragraphs A and B of this act.

Section 16. This act shall take effect only upon 2.0/65
deauthorization of the Cross Florida Barge Canal Project by 2.0/66
the United States Congress and shall take effect on the
effective date of such deauthorization by the United States 2.0/67
Congress, provided that section 15 shall take effect on July
1, 1979.

CODING. Words in struck through type are deletions from existing law; words underlined are additions.

To Marjorie Carr,
Maybe this will be the year!
Regards,
Buddy MacKay

98TH CONGRESS
1ST SESSION

H. R. 2695

To deauthorize the Cross-Florida Barge Canal project, to adjust the boundaries of the Ocala National Forest, Florida, and for other purposes

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IN THE HOUSE OF REPRESENTATIVES

APRIL 21, 1983

Mr. MACKAY (for himself, Mr. YOUNG of Florida, Mr. BILIRAKIS, Mr. MCCOLLUM, Mr. SMITH of Florida, Mr. NELSON of Florida, Mr. PEPPER, and Mr. MACK) introduced the following bill; which was referred jointly to the Committees on Public Works and Transportation and Agriculture

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A BILL

To deauthorize the Cross-Florida Barge Canal project, to adjust the boundaries of the Ocala National Forest, Florida, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) the high-level lock barge canal from the Saint Johns River across Florida to the Gulf of Mexico authorized by the Act of July 23, 1942 (56 Stat. 703), is not authorized after the date of enactment of this Act.

(b) The Secretary of the Army, acting through the Chief of Engineers, is authorized to operate and maintain the existing facilities (and lands appurtenant thereto) of the Cross-

Florida Barge Canal project referred to in subsection (a) of this section in such manner as he determines to be necessary, pending further disposition by law of the project, its facilities, and lands.

SEC. 2. (a) The boundaries of the Ocala National Forest, Florida, are extended to include the lands north and west of the Oklawaha River as shown on the map dated July 1978, on file with the Chief of the Forest Service, Department of Agriculture, Washington, District of Columbia, and available to the public in the office of the appropriate regional forester, forest supervisor, or forest ranger.

(b) Within the boundaries of the Ocala National Forest as extended by subsection (a) of this section, lands or interests in lands and improvements owned by the United States and administered by the Corps of Engineers, Department of the Army, shall be transferred to the Secretary of Agriculture to be administered and made a part of the Ocala National Forest, Florida, at such time as the Secretary of the Army deems such action to be appropriate, but not later than September 30, 1984, except that the Secretary of the Army, acting through the Chief of Engineers, may operate and maintain the existing facilities of the Cross-Florida Barge Canal project referred to in the first section of this Act within the extended boundaries of the Ocala National Forest pending further disposition by law with respect to such facilities.

(c)(1) The Secretary of Agriculture shall acquire those lands and interests in lands held by the State of Florida within the boundaries of the Ocala National Forest, as extended by subsection (a) of this section, with donated or appropriated funds, by purchase or exchange. For acquisition of such lands or interests in lands, the Secretary of Agriculture—

(A) shall pay the State of Florida an amount, or

(B) in the case of an exchange, give the State of Florida lands or interests in lands with a fair market value,

which is not less than the fair market value of the lands or interests in lands to be acquired from the State of Florida.

(2) There are authorized to be appropriated for fiscal year 1984 such sums as may be necessary to carry out the provisions of this subsection.

A REVIEW OF
THE STATE OBLIGATION TO REPAY COUNTIES
OF THE
CROSS FLORIDA CANAL NAVIGATION DISTRICT
FOR LAND ACQUISITION

BY STAFF OF
THE SENATE NATURAL RESOURCES & CONSERVATION COMMITTEE
DECEMBER 1984

I. Introduction

The following report prepared by the staff of the Senate Committee on Natural Resources and Conservation reviews the obligation of the state to repay to the counties of the Cross Florida Canal Navigation District those funds, plus interest, which they contributed to the district for the purpose of acquiring the right-of-way for the Cross Florida Barge Canal. A provision of chapter 79-167, Laws of Florida, directs that upon deauthorization of the Cross Florida Barge Canal project by Congress, there shall be appropriated approximately $9 million to repay each county in the canal Navigation District the amount of principal that it contributed to the district in the form of ad valorem taxes which was assessed by the district. An additional provision of chapter 79-167, Laws of Florida, directs that the interest on this ad valorem tax contribution also be paid to the counties from funds to be derived from the sale of surplus lands in the Canal Authority right-of-way. The interest is to be compounded annually from the date of payment at the rates provided in that law. From 1976 to the refund date, the interest rate is 8 percent. It has been estimated that the state's current obligation of principal plus accumulated interest is approximately $35 million. (See Appendix A.)

The objective of this report is to re-examine the purposes and bases of this increasing obligation to the state with the intention of raising policy issues concerning the obligation before the Canal project is actually deauthorized and these financial obligations activated.

This report examines various alternatives to the current financial obligations, and makes recommendations accordingly.

II. Summary

Unless changes are made in the existing law, upon deauthorization of the Cross Florida Barge Canal, the state will be obligated to repay to the six counties of the Cross Florida Canal Navigation District the $9,340,720 which they contributed to the district for the purchase of the canal right-of-way. At the end of the 1984-85 fiscal year, this amount plus interest accrued will total approximately $35 million. The funds to repay the interest are to be derived from the sale of surplus lands. Since there is no specified source to repay the principal, a request could be expected to repay it from the State General Revenue Fund.

After examining the basis for the current commitment to repay the counties and considering that the state also contributed approximately $7.5 million for the purchase of the canal right-of-way, the staff evaluated several alternatives to the existing financial obligation.

Considering the various alternatives available, the staff recommends that the existing law mandating the financial obligation to the counties be repealed and replaced with an obligation by the state simply to share with the counties, on an equitable basis, the funds derived from the sale of the surplus lands. Since the state contributed approximately 45 percent of the money to purchase the right-of-way, it should receive approximately 45 percent of the funds derived from the sale of surplus lands. The remaining 55 percent should be divided among the six counties based upon the percentage that each contributed to the total of $9,340,720 contributed by all six counties.

It is further recommended that the funds which the state receives from the sale of surplus lands should be placed in the Conservation and Recreation Lands (CARL) Trust Fund for the purposes of acquiring state lands according to the provisions of section 253.023, Florida Statutes.

III. Findings

A. The Law

1. History

The histories of the creation of the Canal Authority of the State of Florida and the Cross Florida Canal Navigation District (hereafter referred to as the Navigation District) have been well documented in previous reports and will not be repeated here.(1) It is sufficient, for the the purposes of this report, to review the fiscal and land acquisition responsibilities of the Navigation District and the Canal Authority.

The Canal Authority was created first in 1933 with the Navigation District created two years later in order to provide a source of revenue to finance the acquisition of the right-of-way for the canal by the Canal Authority. The Navigation District consists of six counties through which or adjacent to which the canal was to run. These counties are Duval, Clay, Putnam, Marion, Levy, and Citrus. Pursuant to section 374.501, Florida Statutes, the Navigation District was given the authority to assess and collect taxes on real and personal property within the counties comprising the districts. The maximum amount of taxation authorized in any year was six-tenths mill on the dollar.

The district began levying and collecting taxes in 1936 and continued to do so uninterrupted until January 1971, when the order was issued by President Nixon to halt work on the canal. At that time the total amount of taxes which had been collected by the district since 1936 was $9,340,720. (See Appendix B.) The majority of that money had been transferred to the Canal Authority which in turn used it to acquire the right-of-way for the canal. Of that total amount approximately $900,000 is currently on hand in the district's accounts. (See Appendix C.)

The Canal Authority was created to construct and maintain the canal. Pursuant to sections 374.051 and 374.071, F.S., the Canal Authority was specifically given the right to acquire the necessary land for the right-of-way of the canal. This function was carried out and at the time of the Presidential "stop order," the Authority had acquired substantially all the land necessary for the project. The amount of land acquired and currently held by the Authority is approximately 50,000 acres.(2) Of this amount approximately 40,000 acres are held in fee simple, the remainder being held in the form of permanent easements.(3)

In addition to the money received from the Navigation District, the Canal Authority also received from 1962 to 1970 appropriations totaling approximately $7.5 million from the Florida Legislature disbursed from general

revenues, to reimburse the Canal Authority for funds expended to acquire lands for the canal right-of-way.

At the time of the Presidential "stop order," approximately $1.5 million was on hand in the the Canal Authority accounts. As a result of accumulating interest on investments, receipts from leases, receipts from timber and land sales, and the administrative contract with the Navigation District, this amount has grown to approximately $8.5 million in 1984.(See Appendix D.)

2. The Financial Obligation to the Counties

In 1979 the Florida Legislature, faced with what appeared to be the imminent deauthorization of the canal project, passed chapter 79-167, Laws of Florida (later amended by chapter 84-287, Laws of Florida), which provided for several events to occur upon deauthorization. Among the provisions of chapter 79-167, Laws of Florida, now codified in section 374.3001, F.S., is the commitment of the state upon deauthorization of the project by Congress, to repay to the counties of the Navigation District the total amount of taxes which those counties had contributed to the district. As noted previously, that amount is $9,340,720.

Another provision of that law, section 4(2)(g), chapter 79-167, Laws of Florida, now codified in section 253.783(2)(g), F.S., is the commitment of the state to refund to the counties interest on the $9,340,720 principal paid by the counties. The interest is to accrue from the time of payment by the counties to the district until the date when the principal has been repaid by the state. The interest to be refunded is to be calculated at the following rates: 1937-1950, 4 percent; 1951-1960, 5 percent; 1961-1970, 6 percent; 1971-1975, 7 percent; 1976-refund date, 8 percent. The funds to refund this interest are to be derived from the sale of surplus land in the canal right-of-way now held by the Canal Authority and from the conveyance of lands of the project to the federal government.

3. The Intent of the Obligation

The apparent intent in committing the state to these financial obiligations was to return to the counties the tax dollars that the Navigation District had collected and from which the counties had received nothing in return (since the canal was not to be completed). In addition, apparently a case was made to refund the interest that the counties could have received had they invested these tax revenues instead of turning them over to the Navigation District. It has been argued that these commitments were also made to garner additional support from the counties involved for their support in the complete deauthorization of the canal project.

B. Consequences of Deauthorization

1. Transfers of Funds and Responsibilities to DNR

As noted above, chapter 79-167, Laws of Florida (later amended by chapter 84-287, Laws of Florida), was passed in anticipation of the deauthorization of the canal project. All but one of the sections of that law (section 15, regarding management plans) were to take effect only upon deauthorization by Congress. Even though these provisions were not to be effective until deauthorization by the U. S. Congress, they were codified as sections of chapters 374 and 253, F.S. This placement in the statutes of a law with such an uncertain effective date seems questionable. Regardless, it is clear that a statute speaks only from the time it goes into effect. Until that effective date arrives, a statute has no force whatever for any purpose. Consequently, before that effective date, no rights may be acquired under the statute and no one is bound to regulate his conduct according to its terms. Neisel v. Moran, 85 So. 346 (Fla. 1920), Attorney General Opinion No. 83-47.

The law provides that upon deauthorization, the Canal Authority will be transferred by a type three transfer to the Department of Natural Resources and that all funds of the Canal Authority will be transferred to and maintained in a trust fund account designated as the Cross Florida Barge Canal Trust Fund which is to be administered by the Department of Natural Resources (sections 1 and 7, chapter 79-167, Laws of Florida). The law also provides that upon deauthorization, the Navigation District will be transferred to the Department of Natural Resources and all funds and property remaining in the district's accounts will be transferred to DNR to be included in the repayment plan to the counties.

2. Repayment to the Counties

Another event triggered by Congressional deauthorization, as discussed above, is the repayment to the counties of the district the principal amount of ad valorem taxes contributed to the district plus the accumulated interest. As previously noted, the funds to pay the principal are to be appropriated, without a source of the appropriation specified. The funds to refund the interest are specified to be derived from the sale of surplus lands and the sale of certain lands to the federal government, pursuant to section 4(2)(g), chapter 79-167, Laws of Florida, as amended. Other provisions of section 4(2), chapter 79-167, Laws of Florida, as amended, set out the procedure by which this is to be done.

The law now provides that any land declared surplus must be offered first to the counties in which the surplus land lies for acquisition for specific public purposes, and that the sale price shall be charged against the amount of repayment, including interest, to be made to that county. The second right of refusal for the acquisition of these lands is to be extended to the original land owner or his heirs should the county decide not to acquire the land. Donated land is to be offered back to the original donor at no charge. The third right of refusal is to be extended to any person with a leasehold interest from the Canal Authority in the land. Lands not purchased or transferred by any of the above means are to be offered to the highest bidder at public sale.

In addition to the funds derived from the sale of surplus land, funds may also be derived from the sale of certain lands to the federal government. Pursuant to section 2, chapter 79-167, Laws of Florida, as amended. DNR is authorized to sell to the federal government state-owned lands in the Oklawaha River and Valley for inclusion in the Ocala National Forest. The value of these lands has been estimated to be from $10 to $16 million. (4) Since this transaction would require congressional approval, it may be drawn out over a long period of time or may not be approved.

3. Management Plan

A factor complicating the sale of surplus lands is that, pursuant to section 4, chapter 79-167, Laws of Florida, as amended, DNR is to submit to the Legislature a "management plan for the retention or disposition of lands acquired for the Cross Florida Barge Canal." (emphasis added) The plan is to be submitted within one year from deauthorization. The reason that this is a complicating factor is that the plan is to consider alternatives to the sale of these lands. These alternatives are to include possible retention of the surplus lands by any interested state agency. If the state decides to retain any of these lands for recreational or environmental protection, for example, these lands will not be available for sale as surplus lands to generate funds to refund the interest to the counties.

C. The Current Extent of the State's Financial Obligation to the Counties

Based on the interest rates provided in section 4(2)(g), chapter 79-167, Laws of Florida, the interest on the principal of ad valorem taxes contributed by the counties of the district, plus the principal, will amount to approximately $35 million by the end of the FY 1984-85. (See Appendix A.) As provided in the statute, that amount is now increasing at the rate of 8 percent per year. The interest is to continue to accrue until the $9,340,720 principal has been repaid to the counties.

D. The Means Available for Meeting the State's Financial Obligation

1. Funds Currently on Hand in the District and Canal Authority Accounts

There are currently approximately $900,000 on hand in the accounts of the Navigation District (see Appendix C), and approximately $8.5 million on hand in the accounts of the Canal Authority. (See Appendix D.) However, pursuant to section 1, chapter 79-167, Laws of Florida, (section 374.001, F.S.), upon deauthorization, all funds of the Canal Authority are to be transferred to a trust fund account designated as the Cross Florida Barge Canal Trust Fund to be administered by DNR. Under section 4(2), chapter 79-167, Laws of Florida, as amended, the funds of the Canal Trust Fund are to be used only to pay expenses involved with various aspects of deauthorization including developing management plans (which shall include addressing remedial measures necessary to correct environmental or economic damages caused by the canal project), the operation and maintenance of existing lands, structures and facilities, and the sale of the surplus lands. A portion of these funds will likely be needed to acquire fee title to those lands along the Oklawaha River which adjoin the Ocala National Forest, pursuant to section 2(4), chapter 79-167, Laws of Florida, as amended. The Canal Authority currently holds only easments to most of these lands. It is also envisioned that these funds will be needed to defend the myriad of law suits relating to property rights which are anticipated to be filed upon deauthorization. There is no specific provision that these funds will be available to repay the counties, either the principal or the interest.

Pursuant to section 14, chapter 79-167, Laws of Florida, (section 374,3001(1), F.S.) upon deauthorization all funds remaining in the district accounts are also to be transferred to DNR. These funds are specifically designated to be included in the repayment provisions of section 4(2)(g), Laws of Florida, as amended, and would, therefore, be available to refund interest to the counties (but not the principal).

2. Sale of Surplus Land

As noted above, the Canal Authority currently holds fee simple title to approximately 40,000 acres of land in the canal right-of-way. Of this total, the state is committed to retain the lands in and around Lake Rousseau and the canal right-of-way, from Lake Rousseau west to the

Withlacoochee River, pursuant to section 3, chapter 79-167, Laws of Florida, (section 253.782, F.S.). The state is also committed to either convey to the federal government or acquire and retain in state ownership lands in and around the Rodman Reservoir and Dam pursuant to section 2, chapter 79-167, Laws of Florida, as amended. The retention of these lands by the state will reduce the lands available to be sold as surplus. It has been estimated that the value of the remaining land, minus the lands around Lake Rousseau and the Rodman Reservoir, is approximately $45 million.(6) It has also been estimated that the value of this land is increasing at the rate of 6 percent per year.

There is a strong probability that additional lands will be retained by the state for recreational purposes, to preserve environmentally sensitive land, for wildlife management and for waterfowl management purposes.(7) Of course, retention of additional lands will further reduce the surplus lands available for sale and, therefore, reduce the funds that could be generated from these sales. In other words, the true value of the potentially available surplus lands may end up being less than the estimated $45 million.

It can be seen from the above discussion that at some point in the future, with the interest on the repayment to the counties accruing at 8 percent annually and the value of the land growing at only 6 percent annually, the financial obligation of the state will exceed the value of the land available to be sold to pay that obligation.

3. General Revenue

There is a provision in section 4(2)(g), chapter 79-167, Laws of Florida, as amended, that in no case shall general revenue funds be used to repay interest owed to the counties. It is anticipated, however, that the counties would press the Legislature to pay the principal of $9,340,720 owed to the counties from general revenue, as no other source for these funds has been designated.

E. Alternative Solutions

1. Maintain the Status Quo

If no changes are made to the existing laws and the financial obligation is allowed to continue to grow at its present rate, upon deauthorization, the state will be faced with the following:

(a) the appropriation of $9,340,720 from general revenue

(b) the sale of surplus lands (plus the addition of $900,000 from District funds) to generate funds to repay to the counties the accumulated interest of approximately $26 million, which is growing at a rate of 8 percent per year.

If funds derived from the sale of surplus lands are insufficient to repay the interest owed to the counties, the state will have to make a decision whether to seek other funds to meet the obligation or to limit the obligation to those funds on hand. This could be done by dividing the available funds among the counties based on their pro rata share of ad valorem taxes contributed to the district.

2. Revise the Law to Reduce the Interest Schedule

If the state chooses to meet its financial obligation, it may be advisable to reduce to some extent the total commitment. One of the ways to do this would be to revise the interest schedule set out in section 4(2)(g), chapter 79-167, Laws of Florida, as amended, to reduce the rates at which the interest is calculated. It seems unrealistic to allow the obligation to continue accruing interest at a rate of 8 percent annually when the value of the surplus land is increasing at a rate of only 6 percent annually. Accordingly, the rates could be revised to more closely coincide with the rates at which the value of the surplus lands have increased.

3. Revise the Law to Place a Cap on the Financial Obligation

Instead of paying the accumulated interest and the interest that is continuing to accumulate, another alternative would be to place a limit on the amount of interest to be repaid. This could be done by fixing the amount of interest to be repaid at some point in time. Since the law that obligated the state to this repayment plan (chapter 79-167, Laws of Florida) was passed in 1979, it is not unreasonable to consider the possibility of fixing the state's financial obligation to repay the interest at the date of the passage of that law. In other words the state would be obligated to repay the principal plus only that interest accrued at the date of the passage of chapter 79-167, Laws of Florida. Since there is no effective date (the act is effective only upon deauthorization), the date set could be the date that the act was approved by the Governor (June 6, 1979) or the date that it was filed in the Office of the Secretary of State (June 7, 1979).

4. Repeal the Obligation to Repay Interest and Agree to Share with the Counties Funds Derived from the Sale of Surplus Lands and Retain the Obligation to Refund the Principal

The state could remain committed to refund the amount of ad valorem taxes contributed, repeal the obligation to repay the interest and simply agree to share with the counties any funds derived from the sale of surplus lands. Such an alternative has a sound rational basis because the state also contributed money to the purchase of the lands for the canal right-of-way in the form of a $7.5 million appropriation from general revenue. Accordingly, the state also should be entitled to some return on this investment. The funds derived from the sale of surplus land could be divided among the state and the six counties based upon the percentage of their total contribution to the amount used to purchase the right-of-way land. For example, since the state contributed approximately 45 percent of the total (i.e. $7.5 million compared to approximately $16.8 million total contributed by the state and counties), it would be entitled to approximately 45 percent of the funds derived from the sale of surplus lands. The counties would then be entitled to divide the remaining 55 percent based on their proportionate contribution to the total $16.8 million.

5. Repeal all Financial Obligations to the Counties.

It can be argued that most of the counties either have already received substantial benefits from the project or will receive substantial benefits upon deauthorization and, therefore, there should no longer be an obligation to repay any amount to the counties. For example, the creation of the Rodman Reservoir has and will continue to provide recreational benefits to the residents at Putnam and Marion Counties. It can be argued, therefore, that these counties have already been compensated for the taxes that they contributed. Citrus and Levy Counties have also received benefits from the canal project for which they otherwise would have had to pay. These benefits are in the form of flood control for the Withlacoochee River, and additional recreation benefits from the use of the completed portion of the canal and Lake Rousseau.

Upon deauthorization, it is anticipated that certain lands will be retained by the state either for preservation or wildlife management. The counties in which these lands are located will gain additional primary benefits for their citizens by the retention of these lands in state ownership. Again, this is a benefit for which the counties otherwise would have had to pay.

It would require additional research to determine the dollar value of these various benefits to the counties, but it is entirely possible that the value of these benefits to a particular county could meet or exceed the amount of taxes contributed by that county. If that is the case, the state should not be compelled to pay to those counties the current financial obligation.

Two of the counties apparently have not received nor will they receive any benefits from the project either as built or upon deauthorization. These are Duval and Clay counties. Since the shipping traffic which would have used the canal would have passed along the St. Johns River through Duval County and adjacent to Clay Couty, these two counties were anticipated to reap large financial benefits had the project been completed. It could be argued that since they stood to gain the most but with no disturbance to their land (no construction activities were proposed or accomplished in either of these counties), these two counties must be expected to bear the risk of loss in the event the canal is not completed, even though they received none of the benefits the other four counties received. On the other hand since these counties have received no benefits from the canal project, it may be advisable to repay these counties the amount of their tax contribution plus interest calculated at some appropriate rate.

6. Retain the obligation, but use funds from the Cross Florida Barge Canal Trust Fund to repay the counties.

Another alternative is to retain the current obligation but to allow money from the Canal Trust Fund to be included in the repayment plan. As previously noted, the Canal Trust Fund will be created upon deauthorization to receive the money which is on hand in the Canal Authority accounts at the time of deauthorization. The Canal Trust Fund is to be used to pay for the expenses involved with deauthorization, including the development of the management plan, the sale of surplus lands, etc. There are currently approximately $8.5 million on hand in the Canal Authority accounts. It seems unlikely that this entire amount would be needed to pay for the expenses listed in section 4(2) and in section 2(4), chapter 79-167, Laws of Florida, as amended. The law could be revised to provide that a portion of this $8.5 million be used to pay off the financial obligations to the counties, while retaining sufficient funds in the Canal Trust Fund to meet the anticipated expenses of deauthorization.

F. Impact of Proposed Federal Legislation

An amendment to the Water Resources Development Act was offered by Florida Representive Buddy MacKay in June of

1984 to the U. S. House of Representatives that would provide for the deauthorization of the Cross Florida Barge Canal. This proposed amendment was debated on the floor of the House, but was eventually defeated by a narrow margin. However, there is a strong probability that the same or a similar amendment will be reintroduced in the House in 1985.

The amendment, as proposed, addresses four points which are relevant to this report. First, the amendment would authorize the Secretary of the Department of Interior to acquire those lands currently held by the Canal Authority that would be necessary to operate the Rodman Dam in a manner which would assure the continuation of Lake Oklawaha. Second, the Secretary is directed to request the transfer of all the easements from Eureka Lock to the St Johns River (which are currently held by the Canal Authority) to the United States. Third, the deauthorization would not become effective until the State of Florida enacts a law which assures that upon deauthorization, the counties in which a parcel of Canal Authority land lies will be given a first right of refusal before the state transfers ownership of that land to any other person (except the federal government). Fourth, the deauthorization would not become effective until the state enacts a law that assures that the Canal Authority lands contained within the proposed expanded boundaries of the Ocala National Forest will remain in either federal or state ownership.

None of the provisions of the amendment, as proposed to Congress in 1984, affect the existence or amount of the financial commitment that the State of Florida has made to repay the counties under the provisions in chapter 79-167, Laws of Florida. The third and fourth provisions discussed above have already been enacted by the passage of Chapter 84-287, Laws of Florida. The second provision only applies to transfer of easements from the state to the federal government. The effect of the first provision would be that instead of selling the lands in question to county or private interests, the lands would be sold to the federal government. The amount of money from such sale should be the same as if the land was sold to county or private interests. Therefore, this provision would also not effect the state's financial commitment to the counties. Other than this first provision, there is no provision proposed in the amendment that would authorize the federal government to purchase any of the approximately 40,000 acres which the Canal Authority holds in fee simple.

Staff feels that with the growing concern nationally about the federal budget deficit, it may become increasingly difficult to obtain the actual appropriations to accomplish what the MacKay amendment authorizes.

IV. Conclusions and Recommendations

When the current financial commitment was made to repay to the counties their tax contribution to the Cross Florida Canal Navigation District, it was apparently done so on the theory that since the canal was not going to be built, the counties would not receive any benefits from the tax dollars that they contributed to building the canal and that, therefore, these funds should be returned. The commitment to repay the interest was apparently made to compensate the counties for the investment potential that these funds could have earned for the counties. The commitment may also have been made to gain support for the growing movement to get the project deauthorized. Also at that time, it seemed that deauthorization was imminent. In light of the benefits already received by some of the counties and benefits to be received upon deauthorization and in light of the current, overwhelming popular support for deauthorization, there is a need to reexamine the state's obligation to the counties.

It is the staff's recommendation that the state's current obligation to repay to the counties the amount of taxes contributed, plus interest, be repealed and that this obligation be replaced with a commitment to simply share with the counties any funds received from the sale of surplus lands. These funds would be divided between the state and each county based on the percentage of each government's contribution to the total funds contributed to acquire the right-of-way. The state contributed $7.5 million and the counties together contributed $9,340,720 totaling approximately $16.8 million. Therefore, the state would be entitled to approximately 45 percent of the funds generated from the sale of surplus land. The remaining 55 percent would be divided among the counties based on their percentage contribution to the total $16.8 million.

Staff supports this method for a variety of reasons. First, it eliminates the need for the $9,340,720 appropriation from an unnamed revenue source upon deauthorization as is now required under section 14, chapter 79-167, Laws of Florida, (section 374.3001(2), F.S.) and assures that only funds derived from the sale of surplus lands will be utilized. Second, it treats the counties equitably, as intended by the current law, by compensating them based on their contribution of funds for the purpose of acquiring the canal right-of-way. Third, it takes into consideration the state's substantial contribution of funds for this same purpose. Fourth, it eliminates concern over the possible situation of the accruing interest exceeding the value of the surplus land which would be sold to repay this interest.

This recommendation does not address the benefits that certain counties have received or will receive from the project. It is felt that the time and cost of determining the value of these benefits would be excessive and the results of such a determination may not be conclusive because of the many potential variables which inherently would be involved in such a determination.

It is also the staff's recommendation that the portion of the funds from the sale of surplus lands which goes to the state be deposited in the Conservation and Recreation Lands (CARL) Trust Fund to be used for purposes of acquiring land according to the provisions of section 253.023, F.S.

Footnotes

1. "A Review of the Canal Authority of the State of Florida" prepared by the staff of the Senate Committee on Natural Resources and Conservation. January 1981, pp. 5-10.
2. Ibid. p. 20.
3. "Interim Management Plan for Lands and Interests in Lands Owned by the Canal Authority of the State of Florida," Canal Authority of the State of Florida, Department of Natural Resources, 1981 p. 7.
4. Personal communication with Jack Woodard, Manager of the Canal Authority, September 11, 1984
5. Idem
6. "Appraisal of Canal Authority Property, Marion County Florida" for DNR by Charles D. Muncy.
7. See Footnote 3, pp. 100-101

APPENDICES

APPENDIX A

FISCAL YEAR	TOTAL
1936-37	$
1937-38	45,728
1938-39	83,281
1939-40	122,483
1940-41	162,710
1941-42	206,141
1942-43	246,674
1943-44	288,440
1944-45	328,104
1945-46	367,566
1946-47	408,219
1947-48	449,961
1948-49	494,552
1949-50	543,359
1950-51	594,703
1951-52	649,871
1952-53	706,976
1953-54	768,004
1954-55	831,260
1955-56	899,052
1956-57	971,733
1957-58	1,047,065
1958-59	1,128,616
1959-60	1,227,935
1960-61	1,347,994
1961-62	1,510,224
1962-63	1,653,544
1963-64	1,807,776
1964-65	1,983,022
1965-66	3,172,794
1966-67	4,638,049
1967-68	6,372.933
1968-69	8,265,784
1969-70	10,363,307
1970-71	12,517,765
1971-72	13,394.030
1972-73	14,331,612
1973-74	15,334.835
1974-75	16,408,263
1975-76	17,720,924
1976-77	19,138,598
1977-78	20,669,685
1978-79	22,323,260
1979-80	24,109,121
1980-81	26,037,851
1981-82	28,120,879
1982-83	30,370,549
1983-84	32,800,193
1984-85	35,424,209

Approximate Total Dollars (Taxes collected plus interest) 253.783(2)(g), FS - Canal Authority of the State of Florida - February 1983

CROSS FLORIDA NAVIGATION DISTRICT
TAX REVENUE BY COUNTY
EXHIBIT III

FISCAL YEAR	Duval $	Marion $	Putnam $	Citrus $	Clay $	Levy $	Total $
1935-36							
1936-37 (a)	13,725.16	1,402.21	577.45	291.53	218.65	329.36	[illegible]
1937-38 (a)	23,522.52	2,411.28	1,161.41	454.85	427.59	545.08	28,522.73
1938-39 (a)	29,119.44	3,164.70	1,422.83	662.14	494.79	859.09	35,722.99
1939-40 (a)	29,167.10	3,249.93	1,346.61	689.20	578.15	840.52	[illegible]
1940-41 (a)	28,361.57	3,374.99	1,562.32	671.03	559.95	797.52	[illegible]
1941-42 (a)	30,557.01	3,331.67	1,368.91	453.77	494.44	716.34	[illegible]
1942-43 (a)	25,727.26	3,241.95	1,384.75	571.24	536.93	825.82	[illegible]
1943-44 (a)	25,229.36	3,543.06	1,462.65	460.96	519.16	683.66	[illegible]
1944-45 (a)	22,507.26	2,584.82	1,419.40	510.58	511.70	592.45	[illegible]
1945-46 (a)	20,916.98	2,362.85	1,455.24	526.41	480.14	566.83	[illegible]
1946-47 (a)	20,446.96	2,485.49	1,461.33	513.30	499.81	542.57	[illegible]
1947-48	19,992.02	2,479.57	1,401.91	484.18	533.80	542.20	[illegible]
1948-49	20,743.45	2,593.97	1,571.57	546.22	526.86	590.09	[illegible]
1949-50	22,338.74	3,015.85	1,885.67	562.66	599.13	622.45	[illegible]
1950-51	18,775.84	2,356.46	1,598.13	471.69	473.07	501.28	[illegible]
1951-52	19,459.39	2,463.23	1,699.80	562.17	528.50	518.84	[illegible]
1952-63	20,327.96	2,624.24	2,233.01	509.92	601.49	525.42	[illegible]
1953-54	17,843.61	2,272.13	1,929.42	557.15	569.54	407.67	[illegible]
1954-55	18,912.10	2,373.16	1,986.86	531.64	586.84	465.14	[illegible]
1955-56	19,984.71	2,485.47	2,034.69	575.13	668.54	479.68	[illegible]
1956-57	21,263.97	2,525.24	2,129.15	632.98	673.07	503.76	[illegible]
1957-58	20,042.24	2,414.51	2,288.86	746.95	712.43	540.91	[illegible]
1958-59	21,488.88	2,577.93	2,441.68	1,294.41	774.65	820.30	[illegible]
1959-60	31,523.65	3,740.39	3,341.80	1,877.46	1,540.05	654.94	[illegible]
1960-61	34,307.60	4,200.87	3,473.11	1,985.75	1,614.95	800.67	[illegible]
1961-62	61,576.05	7,725.02	6,292.89	1,939.00	2,901.09	915.65	[illegible]
1962-63	38,549.97	5,262.17	3,767.22	2,399.03	1,780.86	943.02	[illegible]
1963-64	39,820.12	5,658.22	3,857.40	2,558.36	1,845.80	1,279.27	[illegible]
1964-65	50,271.48	7,222.57	4,857.65	3,353.96	2,457.09	1,626.18	[illegible]
1965-66 (b)	929,827.47	48,178.95	34,889.62	22,592.53	24,143.41	11,158.59	[illegible]
1966-67 (c)	1,010,540.10	52,032.09	73,151.45	52,360.62	46,460.27	38,343.38	[illegible]
1967-68 (d)	1,018,835.68	208,384.08	73,270.78	68,464.64	49,907.82	39,857.30	[illegible]
1968-69	1,056,263.94	216,659.94	71,335.29	72,475.40	51,672.00	[illegible]	[illegible]
1969-70	1,097,738.14	229,644.19	94,954.45	77,455.79	59,051.15	[illegible]	[illegible]
1970-71 (e)	977,485.35	203,913.55	[illegible]	79,759.75	52,788.34	[illegible]	[illegible]
Total	6,857,193.08	1,058,956.75	454,611.85	400,502.40	309,732.56	[illegible]	[illegible]
Percentage of total revenue	73.4	11.3	5.2	4.3	3.3	[illegible]	[illegible]

(a) Tax receipts for these years are shown before commissions are paid to the county tax collectors & assessors. In remaining years, the figures are net.
(c) Fiscal year ending 7/31/66 - 11 months. (c) Fiscal year 8/1/66-6/30/67 - 11 months. (c) Fiscal year 7/1/67-6/30/68 - 12 months. (d) From Duval

APPENDIX C

EXHIBIT - B

CROSS FLORIDA CANAL NAVIGATION DISTRICT
STATEMENT OF REVENUES, EXPENDITURES, AND CHANGES IN FUND BALANCE - BUDGET AND ACTUAL - GOVERNMENTAL FUND TYPE
For the Fiscal Year Ended September 30, 1983

	Special Revenue Fund		
	Budget	Actual	Variance - Favorable (Unfavorable)
Revenues			
Interest on Certificates of Deposit	$ 8,500.00	$ 12,245.66	$ 3,745.66
Interest on United States Treasury Bills	54,900.00	71,008.97	16,108.97
Total Revenues	63,400.00	83,254.63	19,854.63
Expenditures			
Travel	2,175.00	131.00	2,044.00
Publication of Notices	350.00	276.46	73.54
Administrative Services	16,135.00	11,127.91	5,007.09
Surety Bonds	325.00	298.58	26.42
Total Expenditures	18,985.00	11,833.95	7,151.05
Excess (Deficiency) of Revenues Over Expenditures	44,415.00	71,420.68	27,005.68
Fund Balance, October 1, 1982	780,166.55	780,166.55	
Fund Balance, September 30, 1983	$824,581.35	$851,587.23	$27,005.68

The accompanying notes to the financial statements are an integral part of this statement.

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APPENDIX D

EXHIBIT - B

THE CANAL AUTHORITY OF THE STATE OF FLORIDA
STATEMENT OF REVENUES, EXPENDITURES, AND CHANGES IN FUND BALANCE - BUDGET AND ACTUAL - GOVERNMENTAL FUND TYPE
For the Fiscal Year Ended June 30, 1983

	Special Revenue Fund		
	Budget	Actual	Variance - Favorable (Unfavorable)
Revenues:			
Leases and Rentals	$ 55,627.00	$ 63,617.79	$ 7,990.79
Interest	598,200.00	789,678.51	191,478.51
Miscellaneous		76.00	76.00
Total Revenues	653,827.00	853,372.30	199,545.30
Expenditures:			
Personal Services:			
Salaries and Benefits	82,781.00	78,278.05	4,502.95
Other Personal Services	15,000.00	489.03	14,510.97
Professional Fees	90,500.00	38,756.04	51,743.96
Total Personal Services	188,281.00	117,523.12	70,757.88
Contractual Services:			
Communication and Transportation	4,765.00	2,086.49	2,678.51
Printing and Reproduction	540.00	710.16	(170.16)
Repairs and Maintenance	945.00	77.50	867.50
Travel	17,450.00	8,177.15	9,272.85
Other Contractual Services	2,773.00	149.05	2,623.95
Total Contractual Services	26,473.00	11,200.35	15,272.65
Materials and Supplies:			
Office Materials and Supplies	1,803.00	362.25	1,440.75
Current Charges and Obligations:			
Insurance and Surety Bonds	755.00	309.00	446.00
Pensions and Benefits (Unemployment)	2,948.00		2,948.00
Rental of Building	10,250.00	8,349.34	1,900.66
Rental of Equipment	7,650.00	2,638.07	5,011.93
Other	3,096.00	2,036.07	1,059.93
Total Current Charges and Obligations	24,699.00	13,332.48	11,366.52
Operating Capital Outlay:			
Books	50.00		50.00
Furniture and Equipment	2,125.00		2,125.00
Total Operating Capital Outlay	2,175.00		2,175.00
Fixed Capital Outlay - Land	900,000.00		900,000.00
Total Expenditures	1,143,431.00	142,418.20	1,001,012.80
Excess (Deficiency) of Revenues Over Expenditures	(489,604.00)	710,954.10	1,200,558.10
Fund Balance, July 1, 1982	5,322,586.08	7,254,638.21	1,932,042.12
Fund Balance, June 30, 1983	$4,832,982.08	$7,965,592.31	$3,132,600.22

The accompanying notes to the financial statements are an integral part of this statement.

APPENDIX E

PRELIMINARY DRAFT

312-163-85

A bill to be entitled

An act relating to the Cross Florida Barge Canal; amending ss. 253.783, 253.7829, 374.3001, F.S.; providing for the sale of certain lands acquired for constructing the canal; providing for the disposition of certain funds derived from the sale of such lands; providing an effective date.

Be It Enacted by the Legislature of the State of Florida:

Section 1. Section 253.783, Florida Statutes, 1984 Supplement, is amended to read:

253.783 Additional powers and duties of the Department of Natural Resources.--

(1) The Department of Natural Resources shall make no further expenditures for the purpose of acquiring land for constructing, operating, or promoting a canal across the peninsula of Florida connecting the waters of the Atlantic Ocean with the waters of the Gulf of Mexico via the St. Johns River.

(2) It is declared to be in the public interest that the department shall do and is hereby authorized to do any and all things and incur and pay from the Cross Florida Barge Canal Trust Fund, for the public purposes described herein, any and all expenses necessary, convenient, and proper to:

(a) Develop a management plan for the retention or disposition of lands acquired for the Cross Florida Barge Canal to be submitted to the Legislature no later than 1 year from the deauthorization of the Cross Florida Barge Canal, which plan shall reflect a consideration of alternatives for disposition of all lands in fee or less than fee owned by the Board of Trustees of the Internal Improvement Trust Fund, including those lands previously owned by the canal authority and the United States Army Corps of Engineers, from the North/South midsection line of sections 20 and 29, township 15 south, range 23 east, west to U.S. Highway 41, and the Cross Florida Barge Canal right-of-way from the Withlacoochee River west to the Gulf of Mexico. Such alternatives for disposition will include possible retention by any interested state agency for specific public purposes and a declaration of lands not to be retained as surplus lands to be disposed of pursuant to paragraphs (c)-(f). The management plan shall also address any remedial measures necessary to correct any environmental or economic damage caused by works constructed as a part of or as a result of the uncompleted sections of the Cross Florida Barge Canal.

(b) Operate and maintain existing lands and interests in lands, appurtenances, structures, and facilities until further disposition is directed by the Legislature pursuant to the management plan.

(c) Offer any land declared to be surplus, at current appraised value, to the counties in which the surplus land lies, for acquisition for specific public purposes. ~~Any such sale price at current appraised value shall be charged against the dollar figure, including interest, of the repayment to be made to that county.~~ These offers will be valid for 6 calendar months from the date the management plan is adopted by the Legislature.

(d) Extend the second right of refusal, at current appraised value, to the original owner from whom the Canal Authority of the State of Florida or the United States Army

Corps of Engineers acquired the land or his heirs. The department shall offer and is authorized to reconvey, for no consideration, any donated land declared to be surplus and not sold pursuant to paragraph (c) to the original donor or his heirs. These offers shall be made by public advertisement in not fewer than three newspapers of general circulation within the area of the canal route, one of which shall be a newspaper in the county in which the lands declared to be surplus are located. These offers will be valid for 6 calendar months from the expiration date of the offers made under paragraph (c).

(e) Extend the third right of refusal, at current appraised value, to any person having a leasehold interest in the land from the canal authority. These offers shall be advertised as provided in paragraph (d) and will be valid for 6 calendar months from the expiration date of the offers made under paragraph (d).

(f) Offer surplus lands not purchased or transferred under paragraphs (c)-(e) ~~paragraph (b) or paragraph (c)~~ to the highest bidder at public sale. Such surplus lands and the public sale shall be described and advertised in a newspaper of general circulation within the county in which the lands are located not less than 14 calendar days prior to the date on which the public sale is to be held. The current appraised value of such surplus lands will be the minimum acceptable bid.

(g) Divide ~~Refund to the counties of the Cross Florida Canal Navigation District~~ funds derived from the conveyance of lands of the project to the Federal Government or any agency thereof and from the sales of surplus lands pursuant to this section among the counties of the Cross Florida Canal

Navigation District and the state based upon the percentage of the contribution of each to the total funds utilized to purchase the right-of-way for the canal. The funds shall be distributed to the counties at the following percentages: Citrus County, 2.38 percent; Clay County, 1.82 percent; Duval County, 40.57 percent; Levy County, 1.38 percent; Marion County, 6.25 percent; and Putnam County, 2.87 percent. The state shall receive the remaining 44.73 percent. The funds that the state receives pursuant to this paragraph shall be deposited in the Conservation and Recreation Lands Trust Fund. ~~Such refunds shall be in proportion to the ad valorem tax share paid to the Cross Florida Canal Navigation District by the respective counties. Refunds to the counties shall include interest on the amounts from the time of their payment by the counties to the date of repayment pursuant to this act. Interest to be refunded to the counties shall be compounded annually at the following rates: 1937-1950, 4 percent, 1951-1960, 5 percent, 1961-1970, 6 percent, 1971-1975, 7 percent, 1976-refund date, 8 percent. In computing interest, amounts already repaid to the counties will not be subject to further assessments of interest. Any partial repayments provided to the counties under this act shall be considered as contributing to the total repayment owed to the counties. Should the funds generated by conveyance to the Federal Government and sales of surplus lands be more than sufficient to repay such counties in accordance with this section, such excess funds shall be deposited in the Cross Florida Barge Canal Trust Fund. In no case shall general revenue funds be used to repay interest owed to the counties.~~

(h) Establish an advisory committee to report to the department regarding the development of the management plan.

This committee shall be composed of one representative from each of the following: Department of Natural Resources, Department of Environmental Regulation, Game and Fresh Water Fish Commission, Department of Transportation, Department of Administration-Division of State Planning, Southwest Florida Water Management District, St. Johns Water Management District, Duval County, Clay County, Putnam County, Marion County, Levy County, and Citrus County; and it shall also be composed of four members of the public at large appointed by the Governor and Cabinet. The department shall conduct public hearings to receive comments and recommendations as to the disposition of lands under the management plan.

(i) Carry out the purposes of this act.

(3) The department shall seek and utilize federal funds and enter into agreements with the Federal Government or any agency thereof to effectuate the purposes of this act.

Section 2. Section 253.7829, Florida Statutes, 1984 Supplement, is amended to read:

253.7829 Management plan for retention or disposition of Cross Florida Barge Canal lands; authority to manage lands until disposition and to dispose of surplus lands.--It is declared to be in the public interest that the Department of Natural Resources shall do and is hereby authorized to do any and all things and incur and pay from the Cross Florida Barge Canal Trust Fund, for the public purposes described herein, any and all expenses necessary, convenient, and proper to:

(1) Develop a management plan for the retention or disposition of lands acquired for the Cross Florida Barge Canal to be submitted to the Legislature no later than 1 year from the deauthorization of the Cross Florida Barge Canal, which plan shall reflect a consideration of alternatives for

disposition of all lands in fee or less than fee owned by the Board of Trustees of the Internal Improvement Trust Fund, including those lands previously owned by the canal authority and the United States Army Corps of Engineers, from the North/South midsection line of sections 20 and 29, township 15 south, range 23 east, west to U.S. Highway 41, and the Cross Florida Barge Canal right-of-way from the Withlacoochee River west to the Gulf of Mexico. Such alternatives for disposition will include possible retention by any interested state agency for specific public purposes and a declaration of lands not to be retained as surplus lands to be disposed of pursuant to subsection (3) of this section and s. 253.783(2)(c)-(f). The management plan shall also address any remedial measures necessary to correct any environmental or economic damage caused by works constructed as a part of or as a result of the uncompleted sections of the Cross Florida Barge Canal.

(2) Operate and maintain existing lands and interests in lands, appurtenances, structures, and facilities until further disposition is directed by the Legislature pursuant to the management plan.

(3) Offer any land declared to be surplus, at current appraised value, to the counties in which the surplus land lies, for acquisition for specific public purposes. ~~Any such sale price at current appraised value shall be charged against the dollar figure, including interest, of the repayment to be made to that county.~~ These offers will be valid for 6 calendar months from the date the management plan is adopted by the Legislature.

Section 3. Section 374.3001, Florida Statutes, 1984 Supplement, is amended to read:

374.3001 Cross Florida Canal Navigation District; disposition of property and funds.--

(1) All property of the Cross Florida Canal Navigation District is hereby transferred to the Department of Natural Resources. All funds remaining in any account of the district and not legally obligated on the effective date of this section shall be divided among the counties and the state according to the percentages established in ~~transferred to the Department of Natural Resources, such funds to be included under the management plan repayment provisions pursuant to~~ s. 253.783(2)(g).

~~(2) Upon deauthorization by Congress, there shall be appropriated $9,346,720 for the purpose of repaying to each county of the Cross Florida Canal Navigation District that amount of principal which it contributed. The accrual of interest shall cease upon payment of the $9,346,720 principal.~~

~~(3) Upon repayment to the counties of the Cross Florida Canal Navigation District, as specified in this act, any funds derived from the management or disposition of lands of the Cross Florida Barge Canal Project will be deposited in the Cross Florida Barge Canal Trust Fund.~~

(2)~~(4)~~ This act shall not be construed to abrogate or impair any contractual agreement entered into by the canal authority or the Board of Commissioners of the Cross Florida Canal Navigation District.

Section 4. This act shall take effect upon becoming a law, except that sections 1 and 3 shall take effect only upon deauthorization of the Cross Florida Barge Canal Project by the United States Congress and shall take effect on the effective date of such deauthorization by the United States Congress.

****

SENATE SUMMARY

Provides for the sale of certain lands acquired for constructing the Cross Florida Barge Canal. Provides for the disposition of funds derived from the sale of such lands.

Statement of Raymond B. Bunton before the Water Resources Subcommittee, House Public Works Committee in Palatka, Florida on June 10, 1985.

Mr. Chairman and Gentlemen: My name is Raymond B. Bunton, a resident of Putnam County, Florida and a constituent and supporter of Congressman Bill Chappell. It is indeed an honor to appear before Representative Roe and your subcommittee, who have recently done so much to pass a reasonable and comprehensive water resources bill in the Congress. Needless to say, this is a tall order in the face of the current administration's policies on Water Resources projects.

My present position is Executive Director of the Putnam County Development Authority, concerned with the Economic Development of this area. My previous positions related to the subject of the Cross Florida Barge Canal are past Port Director, Putnam County Port Authority; past President and Executive Director of the Florida Waterways Association; and Director of the National Waterways Conference.

I arrived in Putnam County in late 1968, having been hired by the county government to design and build a barge port on the St. Johns River and to attempt to induce more industry to locate in Putnam County.

In 1971 when President Nixon stopped construction on the Barge Canal, our St. Johns River Barge Port was 95% complete. This project would probably never have been undertaken had not the Cross Florida Barge Canal been under construction. We envisioned that a barge port served by the

Barge Canal would be a boon to industry and help us locate more new business here. In fact, this river barge port has finally become successful in spite of the canal's construction halt, but it was a lot harder than it should have been. Some of those industries located in the barge port area are there because of the barging capacity, but could enhance their competitive position for contracts west of Florida if they could traverse across the state by barge. Two excellent examples are a major steel fabricator and a large concrete pipe manufacturer. Of course, we are luckier than some other communities because we have the St. Johns River Waterway for water transportation. Those communities inland have no such edge.

After President Nixon stopped the canal (and incidentally started the Tennessee-Tombigbee the same year), the Federal courts determined this to be an illegal act, and ordered the conduct of an environmental and economic impact study, which was accomplished. Though voluminous and weighty, it was comprehensive and has been seized on by all parties, both pro and con the canal project to support their position.

Gentlemen, I have studied these many volumes, traversed all of the canal facilities and route and do not believe the construction of the barge canal would be the disaster which many claim that it might be. This project could be properly constructed with minimal impact on the environment and maximum economic benefit to the area.

When this environmental and economic impact study was conducted, no coal-fired power plants had been completed in the area. Since that time, Seminole Electric Cooperative has completed 2 600-megawatt plants in the Palatka area, using about 10,000 tons of coal per day; Florida Power and

Light on the central east coast of Florida has completed two more; and the Jacksonville Electric Authority has still two more under construction. These power companies get most of their coal from the mid-west (Kentucky and Illinois) and in the case of Seminole, barge it as far as they can, then transload to rail for delivery to the Palatka area. I submit that this coal could be barged all the way at a great savings to the power users. This is feasible and possible with load line barges across the Gulf and through a Cross Florida Barge Canal without further transfer of cargoes. I have loaded river-sized (195' x 35') load line barges in the St. Johns River which later went to sea with their cargoes.

The power companies are not apt to step forward and publicly state that they want the barge canal for hauling coal. They are reluctant to alienate the railroads because they are somewhat at their mercy. Where water competition does not exist, the railroads are relatively free to set rail rates accordingly.

In summary, the Cross Florida Barge Canal is a good project. It should not be deauthorized. It is not likely that the State of Florida will request funds for a restart and completion in the near future, but the project should be preserved until a more enlightened administration realizes the value of water transportation and acts accordingly.

Thank you. Do you have any questions?

Raymond B. Bunton

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CITY ATTORNEY

June 10, 1985

Mr. Robert Roe, Chairman
Water Resources Sub-Committee
House Public Works Committee

Mr. Chairman:

The City of Palatka City Commission welcomes this Committee to out City. We appreciate the opportunity afforded by your visit that we might express our views on the Cross Florida Barge Canal Project.

The City of Palatka has a vital interest in seeing the canal project completed. This interest centers on the positive impact the canal will have on the economy of our area. It will make existing industries more competitive and make Palatka more attractive to new industry. For example, the Seminole Electric Cooperative generating plant in our community burns some 100 railcar loads of coal per day. The railroad currently has a monopoly on the transportation of coal to this area.

Georgia-Pacific Corporation would have an alternate method of transporting raw materials in and shipping paper products out. Sheffield Steel currently uses barges to ship steel beams. A barge route to the Gulf Coast would save them considerable time and money.

Price Brothers Manufacturing ships concrete pipe all over the country. A canal to the Golf Coast cutting their transportation costs would make them more competitive in the industry. Central States Diversified and Florida Furniture Company are two more local industries who would benefit from the canal. By making our local industry more competitive, the City of Palatka and its citizens benefit.

Canals are currently being built around the country to improve transportation for industries in those areas. Palatka is asking for the same opportunity.

The City of Palatka is currently classified by the federal government as an 'economically depressed area'. This project will allow us to improve economic conditions in out city. This project means jobs and dollars to our citizens. The City Commission of the City of Palatka urges your Committee to approve the continuation and completion of the Cross Florida Barge Canal.

Leon S. Conlee
VICE-MAYOR

Mr. **Roe**. We realize now there are some witnesses that we have had to switch around their order of appearance because of extreme difficulties in meeting their commitments. So our next witness will be Mr. Linville of the Cross-Florida Canal Association. Is Mr. Linville here by chance? Mr. Linville, if you would be next, please.

Mr. Linville, we want to welcome you to our committee. You are representing the Cross-Florida Canal Association.

May I make a statement for all the witnesses as you prepare. I understand that we are having a little difficulty in getting formal testimony delivered to the members simply because of the process we are following, so if you have any copies of written statements, will you be kind enough to hand them into our clerk so they can be distributed amongst the members. That would be very helpful.

Mr. Linville, do you have a formal presentation to make?

Mr. **Linville**. Mr. Chairman, I have a number of comments I would like to share with you and a couple of presentations that I would like to insert in the record, if the Chair will allow me to do so.

Mr. **Roe**. Very fine.

TESTIMONY OF GEORGE LINVILLE, CHAIRMAN, CROSS-FLORIDA CANAL ASSOCIATION, JACKSONVILLE, FL

Mr. **Linville**. Thank you very much.

First of all, I want to begin by making a disclaimer statement. I am sitting currently as President elect of the Florida Association of Realtors, which Association has not taken a position on this and therefore in no way am I representing the Florida Association of Realtors in this hearing today.

The Jacksonville Board of Realtors is another story; but the Florida Association, no participation whatsoever. I am speaking as chairman of the Cross-Florida Canal Association, one of the plaintiffs in the several Federal district court cases that we have pending.

Mr. Chairman, I will not take nearly as long as this pile of paper in front of me would indicate that I might take. I simply wanted to share with you just a small amount of the material that I have in three file cabinets, which substantiates my current belief—and I speak a little bit differently than some of the others who have testified—my current absolute, positive best judgment belief that the Cross-Florida Barge Canal as it is currently planned should be built as soon as economically feasible by the U.S. Congress.

I have evidence, endless evidence, to that effect. The first thing I would like to introduce—and Congressman Chappell can help us with this, and also Mr. Evans and Mr. Elliott, who are here, can do so. We will have to give you the information at a later date. We want to insert in the record the complete court hearings relevant to the five lawsuits that have taken place.

My reason for that is this, and I suppose Mr. Shaw you can appreciate this as an attorney too, there has been a great deal of emotion about the barge canal, and you will see more today, as you have already seen thus far.

I would rather deal in facts, and in Federal district court, we were able to deal with facts. The findings of the Federal district courts are very contrary to some of the information that will shortly be presented to you, this afternoon. I have in my hand rulings from the court holding that in essence, summarily, there will be no damage of any appreciable nature to the water supply of Florida by the barge canal, no damage to the environment; as a matter of fact, some enhancement thereto.

Our case—the reason I got into it, I was one of five plaintiffs—the Cross-Florida Canal Association filed against President Nixon's stop order in 1971. We alleged and asked for a stay, preliminary injunction which became a continuing injunction—we asked that the Nixon stop order be declared an illegal act by a President of the United States and we won it. That has never been publicized a whole bunch. It was landmark law because the President in that act had attempted to circumvent the U.S. Congress, which in 1942 and 1944 had an act in the law authorizing the construction of the Cross-Florida Barge Canal.

So in the stop order that Nixon made, which was subsequently declared illegal as a result of our court action and Judge Johnsen's ruling in Federal court, contained a great deal of testimony from many of the people who are going to be here today, opposing the canal. After hearing us all, pro and con, the judge ruled that the stop order was illegal.

In the compromises that were made—and I am summarizing a great volume of material—in the subsequent compromise, there was an agreement by the parties that we would have a further study. Now we are in the midst of that further study, it is underway.

What we are asking for here today, with all this history behind us and these volumes of paper and court testimony—we are asking for the evidence to be presented before this committee, your committee, Mr. Chairman, makes a decision. And I am very comforted by what I have heard you gentlemen say here today, in that you are willing to keep an open mind because that is all we are asking for.

Now why you are hearing strong opposition to this proposal is this reason, and it is a good one, and if I were in their position, I would be doing the same thing they are doing—you see, when one reviews the court records, reviews the voluminous testimony made to the U.S. Congress under oath by all parties, and when you hear Mr. Chappell's further comments as the day goes on, you will realize that a lot of people under oath said things differently than they have said today in these hearings.

Now the end result is that based on court findings, the canal has been ruled environmentally sound, essentially; a good water transportation project; and economically feasible. Now, under the circumstances that those hearings and those court proceedings took place, there was no allowance made for one very important factor; that being the transportation of coal to Seminole plant and to the JEA. Because in its directives from the Federal level, the Corps of Engineers was prohibited from allocating any consideration to coal transportation because of the fact that these plants at the time of the court hearings—these facilities were not in place. And so the new study will take into consideration factors that will enhance the position of the canal that are even stronger than the factors that were considered in the prior cases that have already been resolved in our favor.

And so you see, Mr. Chairman, we have won most of our cases in court and yet we continue to lose our case before the public bodies. Now one would ask why the Governor of Florida takes the position he is taking. In these letters, I have letters from Senator Graham from Miami, who opposed the canal, it did not affect his part of the State except in one way—Federal projects—it affected that a great deal because the Cross-Florida Barge Canal then and now deals with an enormous amount of Federal funding.

Now if you are from Tampa or from Miami or from Fort Lauderdale and you are parochial and you are senator from there or mayor, you have to think about the water projects in your county or in your district; Tampa, Miami, Fort Lauderdale, Port Everglades, whatever. And so the issue came into the political arena.

What we would urge you to do, simply stated without taking a lot of your time because you have a heavy agenda in front of you and your patience is admirable and you will need a lot of it before the day is over; but all we are asking you to do is simply look at the evidence. And I am asking you to look at it with an open mind as to completing the canal.

The parties that are here are all here in good faith. We have been at each other—we have been opponents on these issues for a long time. We have great respect for each other, but the bottom line is that canal ought to be built, and it ought to be built as soon as possible because it is a viable waterway project. It conserves water, it provides—you know, Roosevelt wanted to put a chicken in every pot or something like that. This puts a fish on every plate because the Oklawaha Lake—it was stated on the dam standing there with a handful of hydrilla, Dr. Anthony said this waterway will never—this lake, this impoundment as he called it, will never produce fish because of the oxygen problem brought about by the growth of these hydrilla things that I am dangling here. Our people said otherwise. That was many, many years ago.

Today, I have a news article by Bob McNally of the Jacksonville papers commenting about the fact that it is amazing that this lake is now perhaps, if not absolutely at least one of the number one bass fishing areas in the United States. People are standing there, Mr. Chairman—Mr. Roe—right this moment, fishing pole in hand. Let us not get emotional about it because a lot of those people do not know what is going on, they have no idea what is taking place. They do not even believe that this hearing is taking place. They are about 20 miles from here, standing on the dam, catching their lunch or their dinner tonight and people are camping there and using their boats and canoes and the eagles that are roosting there and the alligators that are there, the osprey that are; all those wildlife people, wildlife animals and insects and bugs and all these other things that these people claim to be interested in, are in place currently today, feeding, roosting, nesting and in fact reproducing in that waterway.

Now if we ever run out of water in Jacksonville, it sure would be nice to have that fresh clean water supply in Lake Oklawaha. In our county, Duval, we have a ruling by the environmental department, that if you build anything commercially, you have to build a little catch basin. It might be on a lot 200 by 300, we are in the middle of a contract like that right now. You cannot build one of those without a catch basin, the purpose being for what—to capture the water that would otherwise flow out of the street, down in the sewer, out in the St. Johns River and out into the Atlantic Ocean, like the water has always flowed from Silver Springs to the ocean.

And that is what happens. We captured the water in the first lake, Oklawaha—there will be two more scheduled in the canal project—tremendous resource price. Today we are starving for water in Florida. Right now we are in an emergency situation.

The other thing is—this is my closing point—the canal is in fact two-thirds built if you will allow me one stretch, one little stretch. The canal is two-thirds completed because uniquely here, as in the case of the Mississippi River and the Tenn-Tombigbee, the St. Johns River is a functional part of the missing link that Governor Bryant mentioned earlier, because one-third of the canal route between the intracoastal waterway and the cut, the canal portion that goes into Lake Oklawaha, one-third of that route is in the river. Then two-thirds remain to go from the river to the gulf, one-third of which is completed, the lands are acquired.

The point has been made earlier relevant to returning the ownership of the land to those people who were paid for easement rights. Now they negotiated all of those easement rights and they were compensated, in court, for them. People who gave title to the land with reverter clauses were all compensated relative to whether it was a reverter deed or other, and I have a complete listing in my files which you are welcome to review, and I know you do not have time to do, but later you could—on how those lands lay; which of those lands are reverter lands, et cetera. And so we have a two-thirds complete project that needs to be completed. At the very least it would seem we could wait, since we have waited all these years and listened to each other in these grandiose debates, it would seem logical that we could wait until this one report is in which will in fact consider some factors that were not previously considered—were not given prior consideration because of the fact that they were not yet functional.

I very much appreciate you letting me make these comments.

Mr. **Roe**. Are there any questions? The gentleman from Minnesota.

Mr. **Stangeland**. No questions.

Mr. **Roe**. The gentleman from Florida?

Mr. **Shaw**. I just have this one comment. George, it never occurred to me that opposing the barge canal could help me with water projects in south Florida, perhaps I should look into that.

Mr. **Linville**. Well I will tell you what has happened—this is true—it happened in the last several days. The vote was 203-202, it affected the Port of Tampa, it affected Fort Lauderdale, it affected the whole State of Florida for the first time, the same people who almost deauthorized the canal last year are the people who are voting to cut back on the overall Florida waterway package, the overall Florida water preservation package, as handled by the Corps of Engineers. That is a fact.

Mr. **Shaw**. Are you talking about the Edgar amendment——

Mr. Stangeland. Will the gentleman yield?

Mr. Shaw. The Edgar amendment is what you are talking about?

Mr. Stangeland. I just want to correct the gentleman because I was one of the 203 voting, and yet I was one that helped preserved the Cross-Florida Barge Canal in the last session of Congress. The reason that vote was taken that way, it was a jurisdictional dispute. It was an attempt by the Appropriations Committee to do an end run on the Public Works Committee and authorize an appropriations bill.

What has happened in the past is that has been done because we have not been able to get authorization legislation through the Senate. And there are powers in the Senate that get their water projects in the appropriations bills, and so long as that is done, we never are ever going to pass an authorization bill. When we fail to pass an authorization bill by the authorizing committee, the little people in the Congress, the lesser lights, do not get their water projects, but the powers who sit on appropriations get theirs. And that is why that happened and it had nothing to do with the question of Cross-Florida Barge or the antiwater project people—I am a prowater project person.

Mr. Linville. I know you are, I know your record on that. I have not received the Congressional Record on this one.

Mr. Stangeland. So I wanted to explain to you that it was a jurisdictional dispute between two committees and we had to preserve our right to authorize projects, and had we lost that fight then—and we may face that fight yet this week when we go back again one more time—but we do not want to lose our authority and our jurisdiction in authorizing more projects.

Mr. Linville. I appreciate that information. All we had was what we read in the paper, which was two columns and I had not received by Congressional Record for that day and did not have a count and made a bad presumption. Thank you though.

Mr. Stangeland. The Congress sometimes works in mysterious ways its wonders to perform.

Mr. Linville. And you do a grand job and we appreciate it.

Mr. Roe. The gentleman from Florida.

Mr. Chappell. Mr. Linville, are you acquainted with the fact that the committee on energy and water, that is the subcommittee of the appropriation committee in the House, called energy and water development, not only provided the leadership and the moneys for the study which you talked about earlier ordered by the court, but that that committee after the $3 million study had been made, brought the Corps of Engineers before that committee for the purpose of having introduced into the record all of that report based upon their study of the Cross-Florida Barge Canal, ecologically and economically, and that after hearing all the testimony and receiving the report, that committee made findings that supported total completion.

Am I not correct on that?

Mr. Linville. You are absolutely correct, I have read it several times.

Mr. Chappell. In which instance, the committee, based upon the information before it, all the testimony, direct testimony of the engineers. And I hold here also a copy of the report on this particular subject that went into the committee report, Mr. Chairman—found that there would be no damage to the quality of the groundwater or the groundwater supply upon completion of the canal.

No. 2, that there would be no damage to the aquifer.

No. 3, that the water supply of south Florida would not be affected.

We hear a lot of folks talking about the canal affecting the supply of water in Miami—can you imagine that? The water supply of south Florida will not be affected.

Extensive tests show no danger of salt water intrusion as a result of construction. That is pretty simple. This is a step canal, it is not a sea level canal, Mr. Linville, is that right?

Mr. LINVILLE. That is correct.

Mr. CHAPPELL. It is a stepped up canal. Which simply means that if you are going to have salt water intrusion beyond that first step, it—the water—would have to run uphill, is that right?

Mr. LINVILLE. That is correct.

Mr. CHAPPELL. So it is logical they made that finding. And lastly, that study indicates no lowering of the water table aside from normal scattered fluctuations along the canal. The only reason I get into this is we are going to hear positions, Mr. Chairman, today from one end of the spectrum to the other, from Ms. Carr's side for example, who want to see this canal dismantled—and the area put back in the State it was before the canal started—to those who are strongly advocating its completion.

I would like to emphasize at this point that what we hear is not on whether or not the canal is to be built, moneys appropriated for that purpose, but only, as I understand it, Mr. Chairman, to decide what to do with this project as it is, whether to leave it authorized and unfunded for completion, or whether we are going to deauthorize it and make it ineligible for all the future for any improvements. That essentially I think is the ultimate.

But let me move one step farther. The corps, Mr. Linville, if I am correct, also at that hearing said that there were certain requirements unmet from that court order about which you spoke, and the requirements were unmet partially, as you say, because of the fact that the coal going to the Jacksonville Electric Authority and Seminole and the others, the source for that coal had not yet been identified and therefore could not be taken into consideration on the cost benefit ratio study.

And further, the committee found that there were certain other elements unmet, such as reasonable benefits and local benefits and so forth.

Mr. LINVILLE. Yes, sir.

Mr. CHAPPELL. Last year the Congress ordered the corps to go back and finish that report.

Mr. LINVILLE. Yes, sir.

Mr. CHAPPELL. So we are not talking about a new report or a new study, we are talking about a fulfillment of the unmet requirements previously ordered by a Federal court, is that correct?

Mr. LINVILLE. That is exactly right, and that is why I wanted the court evidence entered into the record of this hearing.

Mr. CHAPPELL. And from a standpoint of authorization, every court up to this point, in all of the condemnation proceedings and otherwise, have found that the taking of land was for a good public purpose.

Mr. **Linville**. Yes, sir.

Mr. **Chappell**. Navigation primarily, right?

Mr. **Linville**. To the best of my knowledge.

Mr. **Chappell**. And some areas incidentally as recreation.

Mr. **Linville**. Yes, sir.

Mr. **Chappell**. And all of the findings of the committees up to this point have been in keeping with the original finding and determination that was properly for a public purpose and the Congress had always to this point found it feasible and found that it ought to be authorized.

That is kind of the summary, is it not?

Mr. **Linville**. Mr. Chappell, that is the way I understand it. As a matter of fact someone said the cause has been studied so many times, and it is true. One can go back to the environmental report of 1976, which addressed every issue you will hear today, the economics of 1976—the only difference is the economics are much better now than they were then. That is the reason the groups that wanted all these studies to begin with, you remember, Mr. Chappell, was the Florida Defenders of the Environment, who stopped everything, filed for an injunction to stop the canal so that studies could be made. Correct?

Mr. **Chappell**. That is correct.

Mr. **Linville**. Now we are asking for a continuation of those studies that they requested and those studies that continuously left them standing bare in the courtroom. They do not want to continue those studies anymore. You will hear a great furor about that this afternoon. And I suggest to you that when you look at the court proceedings, which are now part of the record here, the Corps of Engineers' records—and there is only one body of the Federal Government charged with the full responsibility of this canal after it leaves the Congress and that is—the U.S. Corps of Engineers. You will hear them lambasted today.

The Corps of Engineers is the responsible governmental agency for carrying out the congressional order, which they have been faithfully trying to do. And they have been stalled in court. The effect of the stalling process has been two-fold; one, the price has gone up, therefore the feasibility economically becomes marginal again; still it will stand up, but it is more difficult now than it was in 1976 or 1978.

So we find ourselves in a situation where all they are asking for at this point in time is what we see as a very reasonable position, to just sort of let them have one more say like they have been asking for since the sixties, that will prove again that we are right. They do not want that study.

Mr. **Roe**. Are there any further questions?

Mr. **Shaw**. Yes, Mr. Chairman, I do have a question.

Mr. **Roe**. The gentleman from Florida.

Mr. **Shaw**. I do not know whether George can answer this or not, but I think it is a good one. We have heard testimony and comments with regard to rerouting the canal around the Oklawaha River so we would not destroy the balance of it. Does the study by the Corps of Engineers take into consideration what might end up to be an acquisition of additional land for such a rerouting? Do you know that or is that—am I asking the wrong person?

Mr. **Linville**. No, I can give you my best guess, which is fairly accurate. We agreed a long time ago—see, I am a canoer, I am a fisherman, I was born and raised in Suwannee County, Live Oak, FL—Oklawaha is a place I have boated for years, I love that river. I also love the lakes.

Now in the process of negotiation, we agreed to a realignment of certain parts of the canal to go alongside and apart from the river. And that was pressed for by the groups that you will hear from later; Florida Defenders of the Environment, the Sierra Club and others. They wanted that realignment, we said okay if it is feasible.

The corps would possibly have taken into consideration; if they have not, they could certainly do so at the direction of Congress I think—now whether or not they have been specifically directed to consider both routes in their current evaluation, I do not know; but I would presume, knowing the thoroughness of the corps in the past that they have in fact considered both routes.

The other route would be a great idea as far as we are concerned. At the time we last studied it, I think it cost somewhere around $40 million, or $30 million more to do so, and did not change the economic factors measurably enough to have any bearing. We had one study that said just the deauthorization alone would cost $100 million, not counting the court case, just the drawdown and one time the Florida Defenders of the Environment wanted Rodman Dam blown up. That is when we went to court in 1971. They said blow up the dam. And that was about the same time that they suggested that earthquakes would take Florida. And these are in the reports that were made.

So we are dealing with an emotional subject; but yes, we would like to save as much of the river as possible—long answer but——

Mr. **Roe**. Mr. Shaw has the floor.

Mr. **Shaw**. You went far beyond the question I asked, but I would like, Mr. Chairman, for purposes of the record, if we could ask the corps to tell us exactly what the parameters of their study is going to be and also a question which has come up in earlier requests and I am sure it will come up again today, and that is if they are going to consider only the cost of completion, that when they start talking about the recreational value, that that be discounted in that the recreational value is already here and with us and is certainly not going to be—at least that of the lake, that of the islands, some of the questions that constantly come up with regard to this river, that whether they are going to consider that as improvements that are undone, when in fact they are here and now and will stay in the event of deauthorization.

Mr. **Linville**. Clay, the reason we are gun shy—and I have to share this with you on all these issues—the order from Nixon came down to destroy that lake, to blow up the dam, to get rid of it, that is what came down. He is the Commander in Chief of the Armed Forces, of which the Corps of Engineers is a branch. Once it leaves the bosom of the Congress, once you say deauthorize and turn it over, then it becomes an agency decision from there on out and the building we are in today becomes involved and all the other agencies of the State of Florida. What was formerly the Canal Authority, a lay group, is now the cabinet of Florida. The cabinet of Florida opposes the canal for various reasons.

And so, we are very concerned when it comes to any issue of saying well they are just going to take good care of you. Trust us, they will not blow the lake away by knocking the dam out—you will hear Ms. Carr tell you later on, she wants the dam destroyed.

Mr. Roe. If the gentleman would yield.

Mr. Shaw. Yes, sir.

Mr. Roe. I do not think we should be interpreting other witnesses' testimony.

Mr. Linville. Yes, sir. [Applause.]

Mr. Roe. If the members will indulge me a moment. I intend to see that this hearing is going to carry the same decorum that we started with. So I do not think we should be judging what other witnesses who have not presented their testimony.

I think the other thing that is also important to be on the record at this point, as far as the committee is concerned, is should the committee make that determination, what form will it take. That will have a great bearing on whether or not what type of deauthorization will be issued, should it be deauthorized. The point I have been trying to make from the beginning is that the committee has no intention of making just an outright deauthorization, nor has that been asked for, by the way, by either Mr. MacKay or Mr. Shaw.

So there will be terms and conditions and certainly the committee knows enough about this issue to be able to make, we hope, with some wisdom those determinations that will protect the interests of all people of Florida. That is what we are going to try to do.

Mr. Linville. We appreciate that more than you will ever know.

Mr. Roe. Any more questions?

Mr. Chappell. Mr. Chairman, only to clarify the record. The testimony of the Corps of Engineers on this point is clear, and I will read you only one citation in answer to Mr. Shaw's question of Mr. Linville. The question was asked or Colonel Wisdom who was then the district engineer, who stated to the committee that there were two routes considered: the completion alternative and the noncompletion alternative. And here are just the brief words which would describe that which would be in the event it went forward.

> In order to minimize any possible environmental damage from the Eureka Lock and Dam down to Bert Dosh Lock, we propose to change the alignment of the canal to move out of the Oklawaha River channel. We have moved the alignment one mile north and west of the existing line of the river to a normal upland location. The new alignment would move that portion of the canal out of the Oklawaha River. The new alignment would also prevent damage to the Dead River swamp area, which was a major environmental consideration. Of course, the changed alignment would add additional costs to the project. In the Summit Reach area, which is some 28 miles long, there was some question about the possible damage that might be done to the aquifer. We propose to modify the project by elevating the bottom prism by some three feet, thereby lessening the possibility of damage to the aquifer.

My only point is to say that I am surprised that the gentleman has not read that report.

Mr. Shaw. Well let me ask you a question then. Does that say that they are going to include the cost of that and they are going to come forward with the cost of that in their report? I do not think that is what you said.

Mr. **Chappell**. No, I did not. Let me say what the committee on which I serve has said to the corps, and that is to complete the study. Now the elements—there were four categories of economic benefits which were not included, as required by the law and the committee so found and directed the corps to come back. Now keep in mind, the corps had made those assessments, they had put them into their assessment that went through the Atlanta office, was accepted as proper there, and then a task force from Mr. Nixon's office was put together to prohibit that information coming on up, so they cut it out at the Washington level and it was not considered.

The committee went back and said that is wrong and they must be considered, and those had to do with the economic benefits to which I referred earlier. Let me just enumerate them because this is what they are charged to do under that law.

No. 1 is to identify the source of coal for the area and what impact that could have on the cost of electricity; savings and so forth, which it had been estimated that the savings alone in the transportation of coal over a period of 10 years would pay for the canal of and by itself.

And the others were the redevelopment—I mean the area benefits—and I am trying to find the place in the report which said that—here we are, found that the report is not complete in the absence of economic assessment which includes consideration of area redevelopment, reasonable economic benefits, contingency benefits and the movement of coal by barge. Now that is the restriction——

Mr. **Shaw**. Well that is a restriction, so I guess the answer is they are not considering the additional cost in their study.

Mr. **Chappell**. It has already been considered.

Mr. **Roe**. Gentlemen, we will ascertain that fact for the record from the Corps of Engineers.

Are there any further questions?

[No response.]

Mr. **Roe**. Mr. Linville, we want to thank you very much for your testimony, it has been very helpful.

Mr. **Linville**. Thank you very much, Mr. Chairman, for being here, we are glad to have you folks in Florida, I hope you enjoy your stay.

Mr. **Roe**. We hope to. Thank you very much. [Applause.]

Our next group will be the environmental panel which consists of Ms. Marjorie Carr, president of Florida Defenders of the Environment; Dr. John Kaufmann, cochairman of the science advisory panel, Florida Defenders of the Environment; Mr. John Jones, director of the Florida Wildlife Federation; Mr. Charles Lee, vice president of Florida Audubon Society; and Ms. Elaine Harrington, chairman of the Florida Chapter of the Sierra Club.

Now if we could have these good witnesses come up, we would appreciate it. Now we want to welcome our environmental panel and distinguished representatives before the committee hearing. We are going to start out first with Ms. Carr. You do not come to us as being someone we do not feel we know. [Laughter.]

Ms. **Carr**. The notorious Ms. Carr.

Mr. **Roe**. Better to be notorious than not recognized at all. So we want to welcome you all to our committee and suppose we start out with Ms. Carr for her presentation. You may open the presentation from the environmental panel.

TESTIMONY OF MARJORIE CARR, PRESIDENT, FLORIDA DEFENDERS OF THE ENVIRONMENT, JOHN H. KAUFMANN, COCHAIRMAN, SCIENCE ADVISORY PANEL, FLORIDA DEFENDERS OF THE ENVIRONMENT, JOHN JONES, DIRECTOR, FLORIDA WILDLIFE FEDERATION, CHARLES LEE, VICE PRESIDENT, FLORIDA AUDUBON SOCIETY, ELAINE HARRINGTON, CHAIRMAN, FLORIDA CHAPTER, SIERRA CLUB, AND MR. KEYSER, FLORIDA WILDLIFE FEDERATION

Ms. CARR. Thank you, Chairman Roe, Mr. Stangeland, members of the committee, we are very grateful to be here and I will very briskly get into my presentation and then I will turn it over to Dr. Kaufmann, who is associated with our group.

I am Marjorie Harris Carr, president of Florida Defenders of the Environment, a statewide conservation group with headquarters in Gainesville, FL.

Our organization was formed in 1969 in order to gather the facts relative to the environment and economic impact of construction of the Cross-Florida Barge Canal. And may I say that the group that formed FDE, as we are commonly called, the nucleus of that group had coalesced early in the sixties when we first heard about the barge canal. We were at that time just interested to find out what the impact of canal construction would be. And we were shocked in 1962, when we found that the route of the canal went right down the Oklawaha River, one of the beautiful rivers in Florida.

So our little group in the early sixties tried to get the canal route changed away from the river. We were unsuccessful in that. We reached our Waterloo in that effort in 1966.

Now I will also say that a lot of people in our group happen to come from the universities. They were from the zoology departments, from the geology department. Not all came from the universities but that was the nucleus of the group and that is the way we got started.

We were unable to stop the route of the canal in 1966. No one in government would listen to us at all, though I rather imagine now they wish they had. But we got absolutely nowhere in 1966, with the effort of saving the river. As time passed and more information was gathered about the geology of Florida and particularly about the hydrology, we realized that there would be an enormous threat to the water supply in central Florida if you dug a ditch right through the aquifer, that is the part of Florida where the aquifer comes to the closest surface of the ground.

When they moved ahead with the construction, our group did organize; we became incorporated; Florida Defenders of the Environment, in 1969. In the first year of our existence, a group of us—and all of our people were volunteers—prepared this 115 page report. "Environmental Impact of the Cross-Florida Barge Canal with Special Emphasis on the Oklawaha Regional Ecosystem" was printed early in 1970. This is an environmental impact statement. This was drawn up, I might say, before the National Environmental Policy Act was passed.

The people who contributed to this are very careful about their reputations. We in FDE have always emphasized getting the facts, on referencing where we get our information. We are a very conservative group as far as the truth is concerned and we have stuck to that policy consistently down through the years.

Nearly 100 specialists contributed to this environment impact report in the fields of biology, ecology, economics, geology and hydrogeology. Once this was prepared, it provided a document that was very influential during the year 1970 in changing the attitude toward the barge canal here in Florida; it was facts, it was information that caused a change in the attitude.

As a result of the investigations—because by that time, we got various other agencies, Federal agencies and State agencies, to check out our facts. And in addition the newspapers checked out our facts, all during the year 1970. We also went to court, were closely affiliated with the environmental defense fund, they took the lead in the appeal to the courts. And early in January, by court order, the construction of the barge canal was stopped, and 3 days later, President Nixon stopped the whole project.

But it was based, we do believe, on the information that citizen specialists—citizen scientists with consciousness about the environment in Florida—gathered together.

Now I think you have heard from others—but let me quickly go over again what has happened since January 1971.

In January, the project was stopped. Then in 1974 the court said that the President could not stop a project that had been authorized by Congress, but the court said you shall not go ahead with this project unless you have a big environmental impact study made and a new economic analysis.

That was done at a cost of $2½ million and it took 2½ years. As a result of that, in the fall of 1976, the following State agencies, and these are the ones that are defenders or who are the stewards of our natural resources; the department of natural resources, the game and fresh water fish commission, the department of environmental regulation, the division of State planning, all of them carefully went over the report of the enormous studies that had been carried out in the previous 2½ years.

At the same time, the Federal agencies, stewards of our environment; the Department of Agriculture, Department of the Interior, the Environmental Protection Agency, and the Council on Environmental Quality, all of them studied the reports and as a result in December 1966, all of them recommended that the project be halted. And on the basis of those recommendations, the Governor and cabinet said, we do not want to have the canal constructed any more, at all.

We asked for deauthorization in 1977, Senator Chiles twice has had deauthorization legislation passed by the U.S. Senate.

The Florida Legislature spent quite a long time in very carefully drawing up companion legislation that would mesh with the Federal legislation, so that the interests of the people and the interests, both of counties, of individual landowners, of the State, of the environment, would be taken care of; a very careful bill indeed that was, and it was passed.

Last year, in 1983, Governor Graham and the cabinet again passed a resolution, and I think the most telling event is the fact that the Florida Legislature a few weeks ago, with the house passing 105 to 5 and the senate 33 to 3, passed legislation asking you, the Congress, to please deauthorize this barge canal.

I submit that it is very clear that the State of Florida would like to have this deauthorized, and perhaps if I may ask my colleague, Dr. Jack Kaufmann, to summarize some of the reasons why we have come to this conclusion.

Mr. ROE. Dr. Kaufmann. May I suggest to the panelists that your testimony will appear, with no objection, in full in the minutes. So, I think it is more productive that we get a chance to exchange views and summarize.

Dr. Kaufmann.

Dr. KAUFMANN. Chairman Roe, other members of the committee, Members of Congress, my name is John Kaufmann, I am a professor of zoology at the University of Florida and cochairman of the Science Advisory Committee of Florida Defenders of the Environment. My primary assignment with the Florida Defenders of the Environment since 1969 has been the Cross-Florida Barge Canal. I am thoroughly acquainted with all of the studies that have been done up until this point.

Our concern for the barge canal, as Ms. Carr explained, began simply with concern about the integrity of the Oklawaha River. But as we began to get further and further into this project, we realized that our concerns about the Oklawaha, as legitimate as they were, were only the tip of the iceberg on what was wrong with this project. We began to find out other environmental problems and great economic problems that we had not even dreamed of when we began the effort.

The environmental concerns about the canal that we have center around three issues. One of these is wildlife. The reports make it quite clear—I am a professional wildlife biologist, and I can tell you that this is quite clear—that the net effect on the wildlife of the Oklawaha River system along the canal route as a whole would be strongly adverse if the canal were completed. This is particularly true with endangered and threatened species along the canal route. A good example is the Florida manatee. We have less than 1,000 or so and the number is decreasing. Manatees have been killed already in construction of the Cross-Florida Barge Canal, even though it is not an operating canal, and there is no barge traffic going all the way through it.

A member of the Federal Manatee Recovery Program, when questioned about the effect of completion of the Cross-Florida Barge Canal, to manatees stated: "If you wanted to design the best trap for manatees, you could not do better than the west end of the Cross-Florida Barge Canal, which lies right across one of their migratory routes."

A second environmental concern we have had with the canal is with the rivers themselves. You have already heard testimony about the Oklawaha River ecosystem. This is one of the richest, most diverse, most productive wild rivers—it was—in the United States of America. Sixteen miles of that river system are now beneath Rodman Reservoir, 20 more miles of that river are untouched and lie above Rodman Reservoir, up to Silver Springs. I hope that you got a chance to see that untouched part of the river on your tour.

Completion of the canal would destroy the Oklawaha River ecosystem, what part of it that is left. You have heard comments made by previous speakers that there was an upland route that the corps had looked into that spared the Oklawaha River Valley. Do not be deceived by that, the upland route that they talk about is displaced off to one side of the river itself, it is true, but between this ditch along the side of the river valley and the river itself, would be a massive earthen dike stretching the entire length—the entire 20 miles of that stretch of the river, covering up completely the flora and fauna of the Oklawaha River valley along that stretch.

The Corps of Engineers made it quite clear in their statements in their study in 1977, in which they discussed the alternate route, that completion of the canal by any of the different routes discussed would mean the elimination of the Oklawaha River valley ecosystem as a entity.

Not only is the Oklawaha threatened by continued canal construction, but the Withlacoochee River at the west end of the canal has also suffered. Construction and partial operation of the canal at that end has resulted in reduced water levels in the Withlacoochee, with resulting navigation problems and water weed problems in the lower Withlacoochee.

There has been proposed a plan for modifying the structures at the west end of the canal that would restore the normal flows of the Withlacoochee but would still prevent floods. The people at that end of the canal are very anxious to have these corrections made to restore the Withlacoochee River, which could be done easily and cheaply. The corps already has the plans drawn up to do that, but that cannot be done until the canal is deauthorized because it would go against the court injunction against modifying the current structures.

So, we have two rivers in Florida, two important rivers in Florida, that have been seriously degraded by the canal. In the case of the Oklawaha, it is essentially a total destruction of the Oklawaha River system, and in the case of the Withlacoochee, continued degradation of that river on the west end of the canal. Once deauthorization is accomplished we can then rest easy on the threat of additional construction, and then we can put into place in the Withlacoochee those corrective measures that would restore the Withlacoochee.

These two environmental matters; the wildlife and the rivers, have been the thing that got us started. By far, the biggest threat to the Oklawaha to the State of Florida from the Cross Florida Barge Canal in terms of the environment is pollution of the aquifer to 28 mile Summit Reach. You will hear, of course, conflicting statements about whether this is serious or not. We have had this question examined, it has been examined by the Corps of Engineers and has also been examined by a long list of independent, professional hydrologists in this area, men who have had extensive professional experience. Their livelihood and reputation depends upon completing construction projects in this kind of rock systems, a fragmented rock system with lots of solution channels. A rock system in which if you dig down into it, you can see that you can have contamination of the ground water much more massively than would be expected if you simply look at the surface.

A long list of these men have testified in hearings and in Federal court that the method of ameliorating the threat to the environment as far as the contamination of Summit Reach, is through grouting. That is, if you run into leaks in the canal chamber, and then if the canal water—which comes from the aquifer—is contaminated, then the aquifer nearby would also be contaminated. The way to cut down on this contamination, not eliminate it completely, but the way to reduce this is to grout, which is the Corps of Engineers' solution. Concrete or some other chemicals are also poured into these solution holes to try to plug them up to reduce the amount of exchange between the contaminated canal waters and the nearby aquifer.

This is a feasible alternative, as far as we know, though nobody has conducted a cut through 28 miles of this kind of rock system before, but the cost of it is astronomical. The court hearings that we referred to earlier, I believe Mr. Linville referred to Mr. Lamaroux testimony on behalf of the Corps of Engineers. What Mr. Lamaroux actually said was that the threat to the aquifer would be essentially limited to the central canal—central Florida regions through which the canal runs and that this could be ameliorated with sufficient grouting and he admitted at that time that grouting could easily run to $40 or $50 million or more. That was in 1972.

The other independent hydrologists who have studied this problem say that the amount of grouting necessary, if it could be done at all and it is not clear that if you ran into a big cavern you could essentially grout at all—but if you could grout, the cost of it would run between $8 and $150 million. This was at 1970 prices. The corps budgeted $15 million for grouting.

Our contention is that the threat to the Florida aquifer has not been adequately addressed. It is a very real threat. Any contamination in the canal waters could flow directly into the aquifer and would affect the areas of Silver Springs, Bellevue, and Ocala. You have already heard about the water needs of Ocala, how they are emerging.

The only way to reduce this threat would be by sufficient grouting and the reason you do not see any figure for sufficient grouting is because it would make the already unfavorable cost benefit ratio go right through the ceiling on the negative side.

There is another problem as far as water with this area. You know, as you have heard previous testimony, that this is one of the fastest growing areas in the United States in terms of population. The water needs of this area are increasing very, very rapidly. The canal would compete, aside from the threat of pollution of the water supply in this area, the canal would also compete with all other uses for water. The reason is that the corps has designed the canal so that it just barely achieves the 12-foot depth necessary to float the barges beneath the surface of the water. The canal was designed to be built just 12 feet down into the ground water. They need 12 feet to float the barges.

What that means is, that since they have cut it so fine in order to save money on excavation, any drop in the ground water level in the Ocala region and the 28-mile stretch of the Summit Reach, would make the water too shallow to float the barges. A drop of a foot or two would do this. Already in 1980–81, we had a drought and this year I understand the same thing has happened again; already the ground water level in the Summit Reach region has dropped to a level at which you could not float barges in the Cross Florida Barge Canal.

Now, these have been results of two droughts within 5 years. Much more important is the competition between the canal for water and other users in the area for water. In other areas of Florida, where the population has increased more rapidly and there have been more demands on the water in the past, the ground water level has dropped up to 60 feet permanently—not in droughts, but permanently. A drop of a couple of feet at Summit Reach as population there expands as rapidly as we heard it is expanding and as our water needs expand for agriculture, industry, drinking water; a drop of a couple of feet would put the canal permanently out of business because it was designed with no safety factor in terms of depth of water.

They originally were going to cut it down to 28 feet and then in order to save construction costs they raised the floor up to 31 feet, mean sea level. That means they need another 12 feet or 43 feet above mean sea level to float barges, and in the droughts that I just mentioned, they are already down to 42 feet below that level without the increased drawing on the ground water level we expect in the next few years. So, the canal not only would pollute the water, it would also compete with the other uses of water in the area.

We started out, as I said, looking only at environmental concerns, we were inevitably drawn into the economics of this project and what we found is astounding. If you review the corps 1977 study, the massive study that was done, you will find at the then current discount rate of Federal projects of 6⅜ percent, the Cross-Florida Barge Canal by the corps' records, had a benefit-cost ratio of 63 cents to the dollar; that is, it would return only 63 cents benefits for every dollar spent.

We believe that that benefit ratio was highly inflated for a variety of reasons. I will not go into detail on them here, I have detailed them in my written testimony which I have submitted and you certainly can study those at your leisure.

For a variety of reasons, we think that the costs at that time were severely understated and that the benefits were highly inflated and that a valid cost-benefit ratio at that time, 1977, would have been less than 50 cents on the dollar and that the reason behind that and the facts behind that are detailed in my written testimony.

At that time, the four categories of benefits that have been asked for in the new study were considered—it has been said they were not considered, but they were carefully considered, they were carefully rejected. The reasons for those rejections are in the reports. They were stated that they are either nonexistent or not appropriate for this project and so they were left out; not because they had not been considered because they had been considered and rejected by the corps.

Subsequent to that, I believe Mr. Bevill's committee asked the corps to reconsider those four categories again. These were area redevelopment, regional economic development, 10 percent contingency, and coal. The corps went back and reexamined again in 1977, at Mr. Bevill's request, those four categories. All four were rejected again as being nonexistent or inappropriate for this project, so they have been considered twice and rejected twice.

Now, we have another request to consider the same four. This is not a continuation of the original study, it is simply another request to restate benefits that have been carefully considered twice before and rejected twice before. That is why we think a new study is not necessary. We can go on asking for new studies forever and delaying deauthorization forever while we wait for new studies to come in. But that will not affect the basic conclusion that the economics of this project are so bad that at the current discount rate and with the appropriate corrections in the cost-benefit ratio, which I have detailed in my written testimony, the current benefit-cost ratio for this project in current valid economic terms would be far less than 50 cents on the dollar.

That is in addition to the environmental problems that we have mentioned that we think in addition the economic factors would argue against the construction of this project. We ask you now to deauthorize the canal, not to delay further, not to wait for more studies to be done, because the State of Florida and the conservation organizations of this State have, in a sense, been held hostage over this issue; the State of Florida for 10 years, the conservation organizations for 20 years.

Florida is faced with a massive population increase, massive environmental problems are facing us right now and will in the future. We need to devote our time and our manpower and our money to getting on with these massive new problems but we cannot do that, we cannot devote all of our time and energy to these problems as long as we are being held hostage and have to devote time and money and energy to endlessly argue deauthorization of the Cross-Florida Barge Canal. We cannot rest as long as the threat of completion of this canal exists. Until the canal is deauthorized, we cannot turn our full attention to other projects that are more important now and are increasingly important in the future.

In the face of huge Government deficits the Government is facing now, our attempts to write a sane budget for the United States of America to even permit the possibility of spending—the cost a couple of years ago was computed at $500 million to complete the canal, I understand now it is over $600 million, as inflation goes up. We cannot afford the risk of having to spend that money for environmentally damaging projects. Just maintaining the canal year to year is costing the Corps of Engineers almost $2 million a year. All of this money could be better spent on other projects and our efforts could be spent on facing Florida's newer and more important environmental problems.

Thank you very much.

Mr. Roe. Thank you, Dr. Kaufmann.

Dr. Harrington.

Dr. **Harrington**. Mr. Roe, other members, thank you very much for coming to Florida to hear our concerns and address the problem for us.

My name is Harrington and I am the Chair of the Florida Chapter of the Sierra Club which is a statewide organization belonging, of course, to the national Sierra Club. We have about 9,300 members across the state.

Congressman Roe, it is especially a pleasure for me to see you here representing New Jersey because I grew up in New Jersey, and here in Florida as we attempt to address our growth problems and many of the issues that arise here, people refer to the New Jerseyization of Florida. That is a difficult word to deal with and it is one of the reasons I think I have become so active in the conservation movement here.

You gentlemen have a written statement from me, a short written statement on behalf of the Sierra Club. I simply wish to support Ms. Carr's position and Dr. Kaufmann's scientific testimony. There has been ample scientific testimony from many sources referred to, including many of the scientific studies referred to in the corps' material.

I think that as this committee addresses and sifts through this volume of material that will be necessary to be done, you should consider the credentials of the scientists, who is saying—which report is supporting what aspect of this complex problem and whether or not you have objective scientists.

I simply wish for Sierra Club to support the position of Governor Graham, Secretary Tschinkel and her agency which has also done many investigations, and Dr. Kaufmann's excellent testimony.

And thank you all again very much for coming to Florida.

Mr. **Roe**. Very good.

Mr. Lee.

Mr. **Lee**. Mr. Chairman, members of the committee, I am Charles Lee, senior vice president of the Florida Audubon Society. Our organization is the oldest and largest conservation and environmental group within the State of Florida, founded in the year 1900, with some 35,000 member and 46 local chapters in the State today. We are affiliated with the National Audubon Society, which serves as our voice on issues of national significance in the Nation's Capital.

Honorable members of the committee, I am not here today to provide the committee with any additional information about the Cross-Florida Barge Canal project that would duplicate the fine testimony provided by Florida Defenders of the Environment and the State agencies and officials who have been present here. I believe that their presentations cover all of the technical points well and I have attached to our written testimony for the record information on these matters in a detailed brief prepared by Florida Defenders of the Environment.

Last year on June 28, the U.S. House of Representatives voted 204 to 201 not to deauthorize the Cross-Florida Barge Canal project. The Florida delegation to the U.S. House voted 13 to 6 in favor of deauthorization of the canal, but like the vast majority of

Floridians and taxpayers throughout the Nation, the majority of the Florida delegation wound up on the losing side of that vote.

When you consider the fact that maintaining the Cross-Florida Barge Canal as an authorized project, let alone restarting construction on it, costs the Federal taxpayer money and works against eliminating the deficit that this Nation faces, it is amazing to me that on June 10, 1985, we need to be discussing the merits of this question at all.

It should have been clear last year, and it is clear without any possibility of dispute this year, that the Cross-Florida Barge Canal is simply not a project that is desired to continue as an authorized project by the vast majority of the people of the State. This fact is backed by the action of every statewide elected body that has ever faced this question. Let us look briefly at the record:

In July 1972, 13 years ago, the elected statewide Governor and cabinet voted unanimously to suspend their earlier support for the canal project.

In January 1977, over 8 years ago, the Governor and cabinet recommended against the completion of the project and requested Congress to deauthorize.

In 1979, the Florida Legislature enacted chapter 79-167, Laws of Florida, over 6 years ago, provided for the State counterpart to Federal deauthorization, providing for the orderly disposition of canal lands, facilities, and assets upon Federal deauthorization.

In May 1985, the Florida Legislature adopted House Memorial 378, which makes findings that the canal, and I think it is important to read these findings, Mr. Chairman, directly into the record because I think they are significant as the debate has gone on here today. The legislature of the State of Florida has determined that the Cross-Florida Barge Canal project would have a deleterious effect upon the ecology of the State, would adversely affect the freshwater aquifers of the State, and that the positive benefits of the project would be outweighed by its negative effect upon the State's environment.

I think that is significant, both politically and legally and morally, because in fact the original creature that was the entity as a local sponsor supporting the construction of the Cross-Florida Barge Canal, was in fact a creature of the legislature. Chapter 376, Florida statutes, created a Cross-Florida Barge Canal Authority, that as an act of the legislature and the legislature has in fact reversed itself on that issue. There is no sponsor for this project remaining in the State of Florida and in fact, the position of the State is clearly one of deauthorization.

We think that the opposition to the Cross-Florida Barge Canal has not only gained official sanction in the State, this opposition has also withstood the test of time. I think as Governor Graham pointed out to you earlier today, that has been State policy through the term of two Governors of our State and I think perhaps even more significantly, the legislature during the terms of leadership of three different presidents of the State senate and three different speakers of the State house of representatives, has in fact taken a position recommending the end of the Cross-Florida Barge Canal project. This has been an issue that has been settled in Florida for a long time, and we think it is high time that the issue be settled in the Halls of Congress of the United States.

I want to thank you for your time in terms of your willingness to come to Florida to take a look at these issues firsthand and to delve into the question of this project on the local level. I believe that you will see, particularly through the action that the legislature has taken this year, that there is no longer a viable Cross-Florida Barge Canal project available in Florida for the Corps of Engineers or the committee to support.

I think it has been put very well by you this morning, Mr. Chairman, the issue now really does revolve around the codicils, the conditions and the specifics of how deauthorization should in the best public interest take place. We think the issue of whether or not deauthorization should take place is an issue that has really largely been settled by the fact that the local sponsor for this project is no longer in existence as far as a willing, participating local sponsor. The local sponsor takes the position that the project should and ought to be deauthorized. We endorse that to you and would hope that that would be your action with the appropriate codicils and conditions to protect the public interest in that process.

Mr. **Roe**. I thank the gentleman.

Mr. Keyser.

Mr. **Keyser**. Thank you, Mr. Chairman, members of the committee. I am here today on behalf of Johnny Jones, who became ill over the weekend and could not attend and he asked me to speak very briefly in his behalf.

He wanted me to advise you that the Florida Wildlife Federation has long urged deauthorization. In our view, the project was ill-conceived from the beginning and that may explain why the State and all of its agencies and most citizens do not now support the project.

Echoing Mr. Lee's comments, Mr. Jones does not recall in his long experience any situation where a project has lived on so long without a sponsor. The limbo status caused by the situation we are in now is causing problems to the State. We believe that the problems can be solved by deauthorization.

Thank you.

Mr. **Roe**. I thank the gentleman.

Are there any questions for members of the panel? The gentleman from Minnesota.

Mr. **Stangeland**. Thank you, Mr. Chairman. I have a couple of questions; one I am just a little bit confused and maybe you can clarify my thinking. Your argument about the fact that the barge canal would be a competitor for the water. It would seem to me that having all the dams in place with the river on the west running into the Gulf of Mexico and the river up here, the Oklawaha and the St. Johns, running into the Atlantic, those dams there in place hold that Reservoir back and do not allow that water to go on and escape on the river. I am wondering then if you do not create a Reservoir of water for use—the various uses you are talking about, along with the barge canal?

Dr. **Kaufmann**. I would like to address that very much.

First of all, when I said that the barge canal was competing for other—with other uses of the water, I was referring to the Summit Reach section, the 28-mile stretch across—which goes past Ocala which has not been dug yet. It is in that area where any drop in the water level would make it impossible to float the barges through the Cross-Florida Barge Canal. Therefore, if you are going to maintain the water level, the ground water level, high enough to float barges, you have got to stop using the water for other purposes in that area. You cannot increase the water usage in that area to the extent that is projected because of the population increase in that area. You have got to make a choice, barge canal or industry, agriculture and drinking water sufficient to support the population in that area. That is what I was talking about in competition for the water.

As far as reservoirs go, this has been looked into very carefully by hydrologists in the State of Florida, by people who work in management districts, and the reservoirs created in the Cross-Florida Barge Canal—in fact, there has been only one reservoir created for the Cross-Florida Barge Canal, the only one that is anticipated to be created, one large reservoir and that is Rodman. Lake Rousseau was there long before the canal was ever dreamt of and the Eureka Reservoir was not completed. And now they talk about the upland route which would essentially eliminate the Eureka Reservoir as a reservoir and simply replace it with the other damage that I mentioned before.

The water in Rodman Reservoir is not the best source of water for this region of Florida or any other region of Florida. Compared to the water in the aquifer and in the rivers which feed the reservoir, it is a much lower quality because of plant oils and disease bacteria. It would have to undergo extensive purification before it could be used. It would be much cheaper and much simpler according to the hydrologist we have consulted, including those in the St. Johns Water Management District, to take water as more water is needed directly from the rivers or from the aquifer, which would need less treatment.

The barge canal is not a storage reservoir, those are very shallow reservoirs, they average—the Rodman averages only about 6 feet deep, it is not a storage reservoir of the type you have out west where you have deep canyons. You put a dam across them like Boulder Dam, you store up the water that comes down during periods of high water and then slowly release it during periods of low water, to the areas below.

In Florida, the landscape is flat and so you can store relatively small quantities of water. Furthermore, the river flow is essentially constant throughout the year. You do not have the river flowing for part of the year and then stopping as you do in these Western States that have these large reservoirs.

What happens is the Oklawaha River, fed by Silver Springs and the other springs, comes into the large canal reservoir, into Rodman Reservoir; it then spreads out over a wide area, it's quality is degraded, a great deal of it is evaporated and then the remainder continues over the dam and down into the St. Johns River and out to the ocean again. You are not storing water. You simply slow down its passage as it passes through Rodman Reservoir. The water in Rodman Reservoir is of much lower quality than the water that is just as readily available from the rivers or from the aquifer itself.

So these are not a viable source of water for any region of Florida. You heard about the emergency uses of this water in Tampa and Miami today. Good heavens, in an emergency, you cannot carry hundreds of millions of gallons of water to Tampa and Miami without a delivery system. If you have ever been to California, you know what this means. The pipeline, the aqueducts necessary to pump water from one part of the State to the other are incredible, and I hope Florida never gets in that position.

Mr. STANGELAND. How much, Mr. Kaufmann, will the aquifer recharge from these reservoirs?

Dr. KAUFMANN. The reservoirs are not in recharge areas, they are in discharge areas. The recharge area that it now passes through is the Summit Reach. Anything dumped into the Summit Reach does recharge the aquifer and if it is contaminates it will contaminate the aquifer.

Rodman Reservoir is not located in a recharge area, it is located in a discharge area. There are many springs delivering water from the bottom of the river valley—from the aquifer—into Rodman Reservoir.

Mr. STANGELAND. So the Summit Reach is actually the divide for water going west and water going east, is that right?

Dr. KAUFMANN. No; it is not in that sense, it is a very complicated hydrogeologic picture in Florida and different parts of—depending on the level of the ground water in different parts of the State, water deposited on the surface will either sink down into the aquifer or if the aquifer is closer to the surface, waters will rise out of the aquifer as springs and go into the rivers. It is not an east-west thing like the Continental Divide of the United States, but Summit Reach is essentially a recharge area. Rodman Reservoir is essentially a discharge area.

Mr. STANGELAND. Then one other—I have a couple more questions, Mr. Chairman.

One of the justifications for the Cross Florida Barge Canal is the shipment of coal, a mode of transportation for coal, and Ms. Tschinkel, in her testimony, has said that the State of Florida has found on a preliminary basis, that such a pipeline—she is talking about coal slurry pipeline now, is cost effective and an environmentally acceptable coal transportation alternative. With the concern for the availability of water in Florida and with the environmental concerns expressed on the national level toward a national coal slurry pipeline, do the environmental groups subscribe to that piece of testimony?

Dr. KAUFMANN. That is a good question. The environmental groups, I believe the fairest thing to say about that, are split on that particular issue. There are people that see the coal slurry pipeline as a cost effective way or bringing needed energy reserves to the State; there is also considerable concern about what do you do with all that dirty water that comes out of the end of the pipelines delivered to Florida.

The environmental groups have not taken a position for or against the coal slurry pipeline, we are still looking into it, the data are not complete. You may have noticed that other States that originally were in favor of this are now reconsidering and this is a problem that we are looking into and have not made a decision on yet.

I will say with respect to the coal that there are other means available, modes of transportation of coal, available to the powerplants that could use coal in the Cross-Florida Barge Canal area, which we believe have been demonstrated and will be demonstrated by this study that is being done, that are more cost effective than the Cross-Florida Barge Canal.

The Jacksonville area and Florida Power & Light in Sanford on the east coast of Florida have deep water port facilities and can receive coal by oceangoing barge, which are five times the size of the barges that go through the barge canal. They can receive coal on the international spot market by ships that are 10 times the size of the barges that would fit through the barge canal, all at much cheaper rates than the barge canal can deliver coal. There are trains that can deliver coal at competitive rates to these areas.

We do not think that there is any justification, and the fact that the power companies are so quiet on this we think backs this up, for building the barge canal for shipping coal. I think one of the most illuminating aspects of this, if you look at Florida Power Corp. on the west coast of Florida, I do not know if you noticed the big powerplant there when you examined the canal route—Florida power is on the west coast of Florida, it has its own deepwater port facilities for bringing coal in to its coal fired power plant. The barges that can come into that deepwater port are five times the size of the barges that would fit through the Cross-Florida Barge Canal, so when they have their coal delivered by barge, it is delivered with the great economies of scale compared to what the barge canal can offer.

They get at least half of all of their coal still by unit train because as they told us, the unit trains are not only competitive with gulf barge rates, but the big gulf barge canal rates but also are not subject to problems because of floods in the Mississippi River and other rivers. So they, with full deepwater port facilities, much, much more efficient than a Cross-Florida Barge Canal, they are still getting 50 percent of their coal by unit train.

Mr. STANGELAND. One other question on the environmental aspect. I think you made the statement that the Rodman Dam, the creation of the Oklawaha Reservoir has disturbed or harmed greatly the ecosystem of that area. Has it not changed that ecosystem somewhat?

Dr. KAUFMANN. Yes; it has eliminated one system and replaced it with another.

Mr. STANGELAND. You have got now bald eagles, you have got osprey, you have got—I noticed when we air boated through it yesterday, a tremendous amount of duck, I do not know if they are desirable ducks or what they are——

Dr. KAUFMANN. They are coots, they are not ducks, they are mostly coots.

Mr. STANGELAND. OK. And of course, a big bass fishery. But that tradeoff is not a fair tradeoff?

Dr. KAUFMANN. We think not, and the reason is again the wildlife studies have been quite specific about it; not only the studies done by the corps but other studies. For instance the bald eagle.

There was a study by the University of Florida, the School of Forestry Resources and Wildlife Management, on the bald eagle populations of north Florida and the future of the bald eagle—it had nothing to do with the barge canal, it was a survey done by the university, of bald eagles. And one of the conclusions they made at the end of that study, and they made a number of conclusions about protecting eagles in north Florida, was that the Cross-Florida Barge Canal reservoirs had no significant effect one way or the other on survival of eagles in north Florida. They were not part of the barge canal study, they were not interested in the canal, but specifically one of the conclusions was that the Rodman Reservoir represented a surplus feeding area in the winter for eagles, it was not a nesting area, and that completion or non-completion of the canal would have no effect on the eagle populations. It has definitely been concluded to have a deleterious effect on other populations of endangered and threatened species.

So we think that the tradeoff, while some species benefit, we think that the harm is much greater to species that are rarer and more native.

Mr. **Stangeland**. One last question, Ms. Carr, because your name was invoked in earlier testimony. [Laughter.]

I have to ask you—and we also heard a great deal of testimony from the folks here at Palatka about the economic benefits to the reservoir to their economy through fishing and the sports fishery and the tourists it attracts.

Should the Cross-Florida Barge Canal be deauthorized, would it be your attempt or goal to continue your efforts to eliminate Rodman Dam?

Ms. **Carr**. What I would like to do is to, once we have—well let me back off and say I have a feeling that a lot of the people interested in saving Rodman Reservoir are really interested in building the canal—now I said a lot, not all.

Once we would get the canal project deauthorized, then you would really know who are those people who are sincerely enamored of Rodman Reservoir. Then I think would be the proper time to sit down and to examine it carefully. There are things that need to be taken into consideration that now is not the proper time.

For example—I will just give you one little idea—there are several kinds of fish that normally live in salt water but come up in fresh water streams to breed and go back down. All right. There were quite a number that did that in the Oklawaha River when it was a free-flowing river; the St. Johns. The Oklawaha River is the largest tributary to the St. Johns River, the St. Johns River is one of our most important rivers here in Florida. We have stopped the Oklawaha from being a free-flowing tributary with the free exchange of various aquatic life up and down—that has not been studied, it needs to be studied. But common sense I think will point out to anyone that if you chop off the biggest tributary to this huge river, the St. Johns, you are going to have some impact on it and so those facts should be looked into.

The other thing is that the Oklawaha River is a very famous river. The big Lunker bass in it have been famous down through the—as long as man has been here, and the red breasted sunfish. So it has been a marvelous fishing place. Obviously when you dam it and made this big shallow reservoir, you had a marvelous fishing area, which we knew it would be—any new reservoir is excellent.

We also said that when you have shallow, warm water with a lot of mud underneath it, rich, rich, that you are going to have a lot of plants grow in it, and we have, and they are a problem to cope with and they are going to cost a lot of money. Of course it can be done with a lot of money.

The river, however, is swift and you never had to spend any money on the control of aquatic weeds in the free-flowing Oklawaha River and it has been fantastic fishing. So what we say is, let that be determined later when the dust has settled, and if it is the will of the people of Florida to keep it dammed and keep it another shallow lake, fine. But what we would want them to do—I would want them to do—is to weigh the facts very carefully before they give it up.

Mr. ROE. Will the gentleman yield?

Mr. STANGELAND. I will yield.

Mr. ROE. Well let me suggest a point of view. First of all, this is not a decision that is going to be made by Florida alone.

Ms. CARR. Right.

Mr. ROE. And I think we all agree to that. And what we are attempting to do in this factfinding indepth, which in my judgment has been excellent up to this moment, is that we are trying to ascertain what are the facts and sift through them.

Many members on the Public Works Committee are also technically trained, so that the jargon and the euphemisms we are using are not foreign to most of them. But it seems to me that as the arbitrator, if you like, of this entire issue, we are being called upon for the most delicate of understanding and patience and perserverance, to resolve this matter.

Now we are trying to dispel some of the emotions as we go along, and I think Dr. Kaufmann has done an excellent job on the presentation of facts as he understands them to be. Now therefore, one of the arts of our great democracy, if you will forgive me for philosophizing a little bit, but I think I have earned that sitting here from 9:30 till now—is that based upon the point of view that when I first came to Congress I was very impatient with Congress and Members of the Congress. I could not understand why they did not see things my way.

After I have had a chance to matriculate and be there a little bit longer, now I understand that there are people who have different opinions. I am not so sure their opinions are right, I am not so sure all of my opinions are right. But I do know one thing, that if we are going to hammer out a workable solution to this issue, then we have to be able to say to those good folks who are concerned about that particular impoundment, that we are not going to have a nibbling away any more than we would want a nibbling away to take place in other directions.

So for good or evil, for the sunshine and the Moon, the statement has been made which has not been refuted. In fact, I made myself the luxury of one note after all my colleagues have asked their questions. I was going to come back and say Ms. Carr, you have done a beautiful job and you have a great reputation; tell me, are you planning on blowing up the dam. [Laughter.]

That was going to be my question. I think that as we hammer a solution out, hopefully, to the order of magnitude of this issue, which is obviously some extensive matter. We have got to be able to come to understandings so that all brothers and sisters when they go home may not have one at all. But at least they have preserved in part some of the things they believed in.

One other important point, if the gentleman will yield, that I think ought to be put on the record.

Mr. STANGELAND. Surely.

Mr. ROE. You know, above and beyond the extreme interest of Floridians—and by the way, we do have many, many people from New Jersey moving to Florida. One of my family lives here; thank God, not in this river area. [Laughter.]

But be that as it may, I think there is a point we may be missing. Some people speak to an issue of maybe $500 to $600 million to complete this project. Some people speak to an issue of $100 million to solidify this program and keep it in some kind of balance. Some people are speaking to the issue of $32 million, as we mentioned earlier today, that would have an effect upon the counties that are involved. They have a vital interest, they are taxpayers, they have put up part of the money.

So we are talking about a great many of the national resources involved, and I assure you that when we go back and debate this issue with the members of our committee and our full committee and the Congress, that those issues are going to come into play. And it would be very difficult for us, in either instance, whether we were pro or con, to go back and say well if there is hundreds of millions of dollars involved, which there is, then we have to be pretty darned sure we come back with a solution. A little bit of Solomon here I think is going to be necessary, so that the understandings are full and complete, and we do not have people going in 50 different directions. Otherwise, our time and energy would be wasted.

I think we have to make that point because that is an important one, if you understand where I am coming from.

Ms. CARR. Well, yes. Now you do understand when I was trying to answer Mr. Stangeland's questions, I answered for the great distant future. At present, we agree that this is—you know, we are in perfect agreement that the legislation that is now before your committee—we have not opposed that at all, we are very much in favor.

Mr. ROE. But the Congress voted against the legislation, that is the reason we are here.

Ms. CARR. I know. I said it was before you.

Mr. ROE. Well let me make another observation on that point, with the good mayor from Ocala who mentioned the point of view. You mentioned yourself, as I recall, that we are in an area of burgeoning growth. It is going to explode, with or without the canal, with or without anything else there. That is going to take place. And the Mayor made a very eloquent presentation, having served in that same capacity myself at one time, that what do we do in the order of magnitude that is needed in the infrastructure of the State, with water supply, sewage disposal and the other things involved. And I was a little surprised early this morning when we looked over all of the plethora of studies that have gone on, no one has ever really gotten into the water resource issue. That puzzled me.

Ms. CARR. Oh, yes.

Mr. ROE. If the gentlelady would yield.

The Federal Government, in spite of all the dissertations and all the reports, has not said—well I happen to believe that the water resource issue is of extraordinary magnitude and people in this country lose that point. They come back and just do not understand that the economy, the growth, the ecology and the environment and human beings themselves are going to depend upon what we are doing with that water supply. It seems to me that if I were on this committee that you developed, the one thing I would insist upon, and you might write that into the Federal law, is that the future of that water resources and how its integrity should be kept is critically important to this area of Florida. I think we made that point before.

Ms. CARR. May I make one little observation, that maybe you all are not too familiar with because we keep talking about the eastern end of the canal and not the western end. But in getting back to the impoundment over there, Lake Rousseau. As I think was mentioned before, that was formed 70 years ago or so, and they dammed up the Withlacoochee River for one purpose, and that was to make a waterfall for a hydroelectric plant. And it was a very successful little plant that was there. Finally, the dam got old. About that time, oil got cheaper and the power company that owned it did not want to bother with rebuilding the dam and replacing that little powerplant, and so that is when the new dam was put in by the Corps of Engineers.

One of the reasons, if we can get this deauthorized, then the flow of the Withlacoochee River can again go over the dam and make enough of a fall, enough power—what do you call it, a head, I guess—so that it would then again be desirable to have a small hydroelectric plant there, which seems to me to be very sensible—and there would still be sufficient water—it has already been studied by the Corps of Engineers and Department of Natural Resources here—to flow back down Withlacoochee River and restore the health of the west end of the river, this would not have any bad impact on the 6 or 7 miles of existing canal. This short canal could be a very useful—it is now sort of like an inlet, a long skinny inlet, very useful. Oysters grow there, boats can come up in it.

All of those things could happen and that whole western end of the canal would really be very, very nice indeed. But nothing can happen there until we get the project deauthorized.

Mr. ROE. Well I do not want to belabor the point, but I did want to make it clear, that to deauthorize, in a manner that begins to resolve the problems that we are faced with, if that should go in that direction.

The gentleman from Minnesota.

Mr. STANGELAND. I have no further questions, Mr. Chairman. I thank you, Ms. Carr, for answering. I was just looking at an article that you had written updating the Cross-Florida Barge Canal where you close by saying "Once Rodman is removed, the flooded 16-mile section will restore itself in a relatively short time." I have just become acquainted with Florida bass fishing this year; twice on the Okeechobee.

Mr. ROE. These Minnesotans have trouble with o-c-h's.

Mr. STANGELAND. Too long. And just going over that reservoir yesterday, it seemed that there is a tremendous amount of desirable habitat for bass reproduction far greater than is going to reproduce in any river.

And I think the people here have a legitimate economic resource there that will be valuable for years in the future. Hopefully the aquatic problem can be resolved. It seems to me that this ground around here is sandy enough that it ought to straighten itself out. But whatever we decide to do, I hope that we can come up with some quick proposals that will benefit the whole area and the whole State of Florida.

I thank the Chair.

Mr. ROE. The gentleman from Florida.

Mr. SHAW. Thank you, Mr. Chairman. I would like to further respond to your question to Ms. Carr. She might lay down in front of a bulldozer, but she would never use explosives. [Laughter.]

Dr. Kaufmann, I am glad you brought up the point that has been brought up today, and I think probably put it at rest very scientifically and very forcefully, as to what type of water resource you would be creating and the question of being a water user rather than a resource. The question has been—has come up several times during this hearing as to how much water this area could supply to cities such as St. Petersburg and other areas in south Florida. I would certainly submit that if we in south Florida or anyone else in any other part of Florida want to unify those that are for the canal and those that are against the canal, let us try to put a pipeline into Silver Springs. [Laughter.]

I think this has been an excellent panel, Mr. Chairman, and I very much appreciate the testimony that they have given today.

Mr. ROE. The gentleman from Florida.

Mr. CHAPPELL. Mr. Chairman, I want to express my appreciation to this panel too for their expertise, and this is a formidable group, I will tell you, when they are against something it is rough, when they are for it, they can really bring out the books. I want to commend you on that too.

Ms. Carr, if you had your preference, would you draw the Lake Oklawaha down?

Ms. CARR. Would I what?

Mr. CHAPPELL. Would you draw it down? Would you draw Lake Oklawaha down?

Ms. CARR. You are going to trap me—let me put it this way, only if we have all the people in the area wanting it. But you see, my hooker is that I would feel that once the people in the area had all the facts, that they of course would want it. And I may be wrong, but I would love to have that opportunity.

Mr. CHAPPELL. I am just asking you, if you had your druthers, would you draw it down?

Ms. CARR. Yes.

Mr. CHAPPELL. And if you had your druthers, would you take out the dam that is in the Oklawaha River now?

Ms. CARR. Oh, yes.

Mr. **Chappell**. And that would be the method of restoring transportation feasibility between the St. Johns and the Oklawaha? That being so then, would you advocate the destruction of Buckman lock, because it would not be needed any more, so I assume your answer would be yes.

Ms. **Carr**. Yes; I think that probably would be a wise thing, because that is now sort of a—it is hard to maintain and I think it is also a manatee trap. But I think that that could be very easily done.

Mr. **Chappell**. You could take it out very easily, is what you are saying?

Ms. **Carr**. Well——

Mr. **Chappell**. You would not need it anymore, so——

Ms. **Carr**. Right. But then boats could come up the Oklawaha River, you know, as they did.

You gentlemen, do you know that for years the little steamboats left Palatka and came up the St. Johns and went up the Oklawaha and went all the way out to Silver Springs, little steamboats. They had to make them short because the Oklawaha is so crooked, you could not take a long one, but it was a—one of the famous trips back in the 1870's. It is a deep river that was quite navigable quite a ways up.

Mr. **Chappell**. There is a bridge over the canal between Palatka and the Salt Springs area, would you dismantle the bridge?

Ms. **Carr**. No. I have always thought that was a fine bridge for looking out over the tops of the——

[Applause.]

Mr. **Chappell**. It is part of the canal structuring and has a beautiful view.

Ms. **Carr**. It is quite scenic over the Oklawaha River Valley, you know. You could——

Mr. **Chappell**. It does not come over the Oklawaha Valley now.

Ms. **Carr**. Are you talking about the one by Eureka?

Mr. **Chappell**. No, no; I am talking about the bridge that goes over the canal between Palatka and Salt Springs.

Ms. **Carr**. Oh, I have not studied that, Mr. Chappell, I have not studied that. But I am sure something could be—you know, I mean those are details that would have to be studied.

Mr. **Chappell**. You have seen it though?

Ms. **Carr**. Yes; I do not think it is anywhere near as scenic as the one over the Oklawaha valley.

Mr. **Chappell**. I agree with you on that. You would leave that one in place?

Ms. **Carr**. Oh, yes, in fact, I think it ought to be fixed so people could stop there and look.

Mr. **Chappell**. Where would we get the money for that, Ms. Carr?

Ms. **Carr**. Well we would have to go to you, you are the one.

Mr. **Chappell**. Now let me ask you this, on the west end——

Ms. **Carr**. Yes.

Mr. **Chappell**. You are saying you would want to leave the canal, the sea level canal——

Ms. **Carr**. Yes.

Mr. **Chappell** [continuing]. In place up as far as Withlacoochee.

Ms. **Carr**. To Dunnellon. The salt water has really intruded there.

Mr. **Chappell**. Are you not worried about salt water intrusion?

Ms. **Carr**. No; it is already stabilized. That is now like a little inlet of the Gulf of Mexico. The salt water has come up, we have salt water intrude, you know, into the sides, but it has stabilized. The worry of salt water intrusion, Mr. Chappell, if you continue building the canal, is that every time you would use the lock, a slug of salt water—salt water is heavy we know—would slip under into—what is the name of the lake—Lake Rousseau, and build up the salt in that. We have had quite a lot of trouble with salt water intrusion because every time you opened the lock in comes a slug of salt water.

Mr. **Chappell**. All right, let me move on.

Mr. **Shaw**. Would the gentleman yield on that point—would you yield to me?

Mr. **Chappell**. Yes.

Mr. **Shaw**. With regard to salt water intrusion, I know quite a bit, having been mayor of Fort Lauderdale and watched the salt water actually come into our well systems and having to move them further and further to the west. It is my opinion even though that has stabilized now, as populations grow around that area and there becomes more demand on the water supply, salt water intrusion could become a real problem over in that area because of that inlet. We are suffering some of those problems with regard to some canals that we have built in south Florida and they are having a very negative effect, and maybe that is something that this committee ought to consider because at least if the canal has not been completed, the option of closing that off would be available sometime in the future should it endanger the water supply of that part of the State. But of course the option would not be open to you if you had the canal and the huge investment going with it.

And I thank the gentleman for yielding.

Mr. **Chappell**. Mr. Kaufmann, what is your area of expertise?

Dr. **Kaufmann**. I am an ecologist, sir.

Mr. **Chappell**. Sir?

Dr. **Kaufmann**. I am an ecologist.

Mr. **Chappell**. Do you teach at the University of Florida?

Dr. **Kaufmann**. Yes, sir; wildlife ecology.

Mr. **Chappell**. Now I notice that you and others have alluded to a study made by the corps. I noticed that one of you made the comment that it was not an independent group. Do any of you take the view that the study made by the Corps of Engineers at a cost of $2.6 million was not an independent study?

Dr. **Kaufmann**. What do you mean by independent study, sir?

Mr. **Chappell**. Well, let me read just a word or two from the report, on page 4, which accompanied the Public Works for Water and Power Development and Energy Research Appropriations bill in 1978.

The Chair made this statement:

> It is of interest to note that the court in its order of February 1974, recognized that because of the President's position and Chief of Engineers, that a matter of official or public embarrassment to these officials by the current EIS, the court there-

fore suggests the retaining of impartial, professional organizations to prepare the EIS.

In that year, 1974, Congress appropriated additional funds for the corps to complete the study then pending, an independent one. In 1975, General Morris, and he was Chief of Engineers, Corps of Engineers, you came back to this committee for more funds, for a total of $2.6 million, including the initial $150,000.

The previous year, you had assured the Senate Public Works Subcommittee that you were interested in preparing an environmental analysis that would be fully creditable.

Do you deny that that report is creditable?

Dr. **Kaufmann**. The studies that were done by the contractors for the corps, which you are referring to, certainly the various contractors, the Fish and Wildlife Service, the report—the study done by those men and their reports are fully creditable. As you read the data that were presented in the study, the original study upon which the corps based its report, you will find that those questions are addressed and addressed very well.

However, the conclusions that the contractors drew on the basis of the scientific studies——

Mr. **Chappell**. Let me ask you——

Dr. **Kaufmann** [continuing]. Were not reflected in those studies.

Mr. **Chappell** [continuing]. Now so the record is perfectly clear, do you perceive that the Corps of Engineers' report, let us put it that way, to Congress was without credibility?

Dr. **Kaufmann**. Some part of it I think so.

Mr. **Chappell**. Which parts?

Dr. **Kaufmann**. Would you like me to detail that? I do not have time today, but I would——

Mr. **Chappell**. Just give me a good example.

Dr. **Kaufmann**. All right. Forty-three percent of the entire recreation package for the Cross-Florida Barge Canal is based—is attributed to $1½ million of benefits for swimming on beaches on the west coast of Florida created by the Cross-Florida Barge Canal, that is 43 percent of the entire recreation benefit package, 17 percent of the entire package on the canal. All right, as it turned out, the beaches that were being used to justify this $1½ million a year of annual benefits, were little sandbars, spoil islands that were dredged by the corps when they dredged the channel from the west coast of Florida out 10 miles into the Gulf of Mexico. There is a line of little sandbars that extends 10 miles out into the gulf. Those sandbars are just little bumps of sand in the Gulf of Mexico, and they are claiming $1½ million a year in annual benefits for swimming from those.

And I asked them in 1976 at a public hearing, how can you justify $1½ million a year swimming on those sandbars and they said that the benefits were computed on the basis, not of accessibility, but on the demand for sandy beaches on the west coast of Florida. And I said you mean you are claiming the same benefits for that little spoil island as you would for the beach and they said yes.

Mr. **Chappell**. Let me close by saying——

[Applause.]

Mr. **Chappell**. I would like for you to list them. I was not prepared for a dissertation at this point. That is one, can you just list them?

Dr. **Kaufmann**. All right, 43 percent of your recreation benefits down the drain.

Another is that the U.S. Forest Service, one of the corps contractors, said that the corps understated the value of the timber in the Oklawaha River Valley in computing the cost by a figure of about 10.

Mr. **Chappell**. All right.

Dr. **Kaufmann**. Another is that the bureau of outdoor recreation, which was the corps' contractor on recreation benefits, pointed out to the corps that since the corps planned to treat water weeds in less than 1 percent of the reservoir, they could not claim a recreation benefit. They then told the corps if you are going to clear this much water weed, you get that much recreation; and they gave the corps a schedule. The corps ignored that, they underestimated the water weeds——

Mr. **Chappell**. Now who is that agency?

Dr. **Kaufmann**. The bureau of outdoor recreation of the Department of the Interior.

Mr. **Chappell**. Are you saying that all of the organizations which went into that independent study were creditable?

Dr. **Kaufmann**. Most of them were, I do not know about all.

Mr. **Chappell**. Do you agree that most of them were creditable?

Dr. **Kaufmann**. Most of them certainly.

Mr. **Chappell**. All right, and you are saying that the information which was fed to the corps was improperly used and they came out with a report that was not creditable?

Dr. **Kaufmann**. In some instances, yes, sir.

Mr. **Chappell**. And you have enumerated those. Now how much did that affect the benefit to cost ratio?

Dr. **Kaufmann**. I had not finished enumerating them, but if that is all you want.

Mr. **Chappell**. We have not got all day to pursue this particular point.

Give us the bottom line.

Dr. **Kaufmann**. At the then current discount rate, the corps estimated that the benefit to cost ratio was 63 cents to the dollar. We think it is well below 50 cents to the dollar at that time and lower now.

Mr. **Chappell**. Are you familiar with the committee's finding based upon the evidence before the committee?

Dr. **Kaufmann**. Are you talking about the hearing where you and Mr.—Colonel Wisdom were there; yes, I am familiar with that.

Mr. **Chappell**. General Morris and Colonel Wisdom.

Dr. **Kaufmann**. Yes, sir; I am familiar with that.

Mr. **Chappell**. That testimony was given. Do you find any untruths on the part of Colonel Wisdom?

Dr. **Kaufmann**. I think that some of the conclusions drawn conflicted with the reports that were prepared and the mass of studies that were prepared.

Mr. **Chappell**. Why do you not point those out? Do you find any fault with what General Morris said in his testimony, that is sworn testimony.

Dr. **Kaufmann**. In terms of conclusions, I think it was at that hearing, and you can correct me if I am wrong, when either Colonel Wisdom or General Morris were asked a direct question, I think it was by you, as to the economics of the barge canal, stated that the economics at that time according to their study, were marginal.

Yes, we would disagree with that because that statement that they were marginal was based on the fact that they found that the benefit-cost ratio would be one to one, figured at the 2⅞ discount rate. We think that at the then current discount rate of 6⅝ percent, the canal economics were not at all marginal, they were very, very bad, and so we would disagree with that particular conclusion.

Mr. CHAPPELL. Well I understand the conclusion, but Colonel Wisdom said in an answer on the report, was the ratio one to one; yes, sir, the benefit-cost ratio is one to one.

Dr. KAUFMANN. Uh-huh.

Mr. CHAPPELL. Now it is only at that point that you get into area benefits; is it not?

Dr. KAUFMANN. It has to be better than one to one, yes, sir.

Mr. CHAPPELL. So, that was fine. Now, at the Federal level, at the top level, these various factors were factored out and the question was asked—and I am referring to page 20 of the report—talked about coal and that was explained and I am not going to read all of the information on coal, but it was agreed that coal had not been considered because the source was unknown.

And he was asked, and it is my understanding also in the final analysis that you did not take into account the area benefits, and he said that is correct.

Had you taken those into consideration, it would have substantially enhanced the benefit-cost ratio, is that correct? Yes, sir; that is correct.

Did you take into account the 10-percent contingency? No, sir; we did not.

Had you taken into account the 10-percent contingency, would that have further enhanced it? Yes, sir; it would.

If I understand it then, the final would have been 1.46 had you taken them all into consideration? And his answer was with each of those items you mentioned, yes, sir.

If those three items I mentioned had been incorporated into the studies, then the benefit-to-cost ratio would have been 1.46 and the answer was yes, sir; that is correct.

Now, you disagree with the conclusion but recognize also that coal was not even factored into that, but I do not want to belabor too long whether the canal should be built or not. I happen to agree with Ms. Carr back when they were talking about going down the Oklawaha River, I fought that, we did, we lost that fight, going down the Oklawaha River.

The damage—at this point the damage that has been done in a new ecological system has been established and now we are to the part in that reach area—and completely get away from the Oklawaha River, which is the plan, would that make any difference in your thinking?

Dr. KAUFMANN. The plan does not get completely away from the Oklawaha River. The alternate plan—the so-called alternate upland route that has been talked about here and which I assume you are alluding to, would still cause massive interruption of the hydrologic regime of the Oklawaha valley and destroy the forests. And the court said that even by that route, it would eliminate the Oklawaha River ecosystem as an entity.

Mr. **Chappell**. Is there any project that you can imagine, canal going across Florida, that you would agree with?

Dr. **Kaufmann**. I would have to see the studies.

Mr. **Chappell**. Can you imagine one that would show you on the study to your satisfaction a credible reason to go across the State?

Dr. **Kaufmann**. This is obviously a purely hypothetical question. If you could show me one that would be economically viable and one that would not harm the environment, certainly I would be in favor of it. I am not aware of any place that you could do that.

Mr. **Chappell**. That is a good answer; thank you, sir.

Now, let me come to the Okeechobee. If you had your druthers, would you stop at the Okeechobee waterway?

Dr. **Kaufmann**. The Okeechobee Canal; no, that does not come into the aquifer. That is an entirely different situation that has no relationship whatsoever to the Cross-Florida Barge Canal, it does not contaminate the aquifer.

Mr. **Chappell**. You would approve that project if it were starting from scratch today?

Dr. **Kaufmann**. I would approve it as far as contamination of the aquifer. I do not know what the situation was in south Florida at the time that canal was built and whether it destroyed other areas that may have been more important. I am not familiar with that.

Mr. **Chappell**. Doctor, how deep is the aquifer at Summit Reach?

Dr. **Kaufmann**. It varies, it may be down hundreds of feet in some areas.

Mr. **Chappell**. Well would you agree with Colonel Wisdom that it is over 1,000 feet?

Dr. **Kaufmann**. In some areas.

Mr. **Chappell**. Would you agree with him that the project in question could touch not more than 25 feet of that?

Dr. **Kaufmann**. But that is the 25 feet we get our water from.

Mr. **Chappell**. I understand, but would you agree with that, that he is talking about not more than—that is the testimony, do you feel it is credible?

Ms. **Carr**. No.

Dr. **Kaufmann**. Twenty-five feet total depth? Are you saying that the canal—the possible contamination could not reach below 25 feet total depth?

Mr. **Chappell**. His testimony before the committee was referring to a maximum of 25 feet anywhere in the aquifer.

Dr. **Kaufmann**. You are talking about the cut?

Mr. **Chappell**. In the aquifer.

Dr. **Kaufmann**. The cut into the aquifer, right. The cut in the aquifer would be no more than 25 feet.

Mr. **Chappell**. Right. Out of something like 1,000 and 25 feet.

Dr. **Kaufmann**. That is right.

Mr. **Chappell**. OK. Now in all——

Dr. **Kaufmann**. And that is the 25 feet we get our water from.

Mr. **Chappell**. All right. You testified—are you familiar with this—I think you said you were——

Dr. **Kaufmann**. I have read it but not in the past year.

Mr. **Chappell**. OK.

Voice. Mr. Chairman, may we identify that document for the record?

Mr. **Chappell**. Yes; I have identified it once but I will do it again, Public Works for Water and Power Development and Energy Research Appropriation bill of 1978.

And when I gave the page numbers that I was referring to.

Dr. **Kaufmann**. We would have been more familiar with that if we had been allowed to attend that hearing; we were not.

Mr. **Chappell**. As I recall that was an open hearing, Dr. Kaufmann, and everybody was invited to attend.

Dr. **Kaufmann**. As I understand, it was not.

Mr. **Chappell**. Yes; it was. And the committee report will show that, it was an open meeting.

Dr. **Kaufmann**. We were not aware at the time it was held.

Mr. **Chappell**. Well, I do not know about that, but it certainly was not a closed meeting.

I invite your attention to the many things in this report where you state that the environment was so damaged that species on the endangered list were put in danger because of the canal.

Dr. **Kaufmann**. Would be if it was completed; yes, sir.

Mr. **Chappell**. Which species?

Dr. **Kaufmann**. The manatee is a good example.

Mr. **Chappell**. How about right now?

Dr. **Kaufmann**. You mean if the canal were completed?

Mr. **Chappell**. As it is right now.

Dr. **Kaufmann**. The manatee would be far worse off than it is now; that would be the most obvious example.

Mr. **Chappell**. I agree. Now they are prohibited—they have tried to discourage them from coming into this area at the present time because of the fact that boats and so forth run over them, is that not correct?

Dr. **Kaufmann**. Several have been killed in Buckman lock, crushed to death in Buckman lock.

Mr. **Chappell**. But the point is they tried to squeeze them out and keep them from coming in.

Dr. **Kaufmann**. Without much success.

Mr. **Chappell**. Now, what else besides the manatee?

Dr. **Kaufmann**. There were a series of 10 endangered and threatened species that were species—rivering forest species in the Oklawaha River Valley that were, of course, eliminated in all the areas that were converted into the reservoir. So, there were 10 species in that area, indigo snakes and other things, that were severely impacted, of course, when Rodman Reservoir was built, and if Eureka was built they would be even more severely impacted.

Mr. **Chappell**. Well, would you agree with this statement made by Colonel Wisdom; sir, I would like to have Dr. Saunders elaborate a bit on the environmental benefits that would accrue. Dr. Saunders was one of those consultants.

Dr. **Kaufmann**. I remember Dr. Saunders.

Mr. **Chappell**. Do you find that without credibility?

Dr. **Kaufmann**. Read me the statement. I do not know what statement you are referring to.

Mr. **Chappell**. OK, I will read the statement then. It says, for instance, that waterfowl population has tremendously increased.

Dr. **Kaufmann**. Coots.

Mr. **Chappell**. If the testimony showed that we are talking about ducks, would you agree that that would also be true?

Dr. **Kaufmann**. There were more ducks now than there were in the river; yes, sir.

Mr. **Chappell**. A whole lot more, isn't there? As a matter of fact, have you been down there in the winter, Dr. Kaufmann?

Dr. **Kaufmann**. Oh, yes.

Mr. **Chappell**. When were you last there?

Dr. **Kaufmann**. Winter before last.

Mr. **Chappell**. And what did you find? Did you get out on the lake?

Dr. **Kaufmann**. Oh, yeah.

Mr. **Chappell**. What did you find out there?

Dr. **Kaufmann**. A lot of coots and a lot of ducks.

Mr. **Chappell**. A lot of ducks. Why did you not tell us about the ducks a little while ago, or did you just want to answer about coots?

Dr. **Kaufmann**. You asked me about endangered and threatened species.

Mr. **Chappell**. Yes, sir; can you tell us about any other water fowl?

Dr. **Kaufmann**. Any other waterfowl?

Mr. **Chappell**. Waterfowl that has been enhanced.

Dr. **Kaufmann**. How do you define it?

Mr. **Chappell**. Well you define it, Doctor, you are the expert. I am not trying to be ugly.

Dr. **Kaufmann**. Yeah; I will be glad to. These terms are bandied around and I am not sure which one you are referring to on that report.

Mr. **Chappell**. Well, he was talking about waterfowl population in general and obviously talking about ducks. Those who had the opportunity to listen to a biologist yesterday said that in the winter time there are just literally ducks everywhere. Do you disagree with the fact that there is a very, very large population of ducks that come in and feed in those marsh areas?

Dr. **Kaufmann**. No; that is true.

Mr. **Chappell**. And as a matter of fact, this is the only project in Florida, public works project in Florida, that produces—makes marshland, is it not?

Dr. **Kaufmann**. This project does not make marshland, sir, no.

Mr. **Chappell**. You would not deny that, would you?

Dr. **Kaufmann**. It does not make marshland, no, I would deny that.

Mr. **Chappell**. Well, if the biologist down there makes that allegation and Colonel Wisdom and General Morris make that clear, you would disagree with them?

Dr. **Kaufmann**. That it makes marshland?

Mr. **Chappell**. That the project itself has enhanced and made new marshland.

Dr. **Kaufmann**. It has made new reservoirs.

Mr. **Chappell**. Has it made new marshland?

Dr. **Kaufmann**. Only as the reservoir itself did not fill up.

Mr. **Chappell**. And marshland would be shallow areas where waterfowl; ducks and coots and all other kind of waterfowl, could most easily feed.

Dr. **Kaufmann**. Yes; it is a lot of shallow water. Let us not argue about the definition of a marsh.

Mr. **Chappell**. All right, I do not want to argue about that either. I am just trying to make the point that the project has not adversely affected the environment or wildlife but actually enhanced it.

Mr. **Roe**. I think we have pursued that far enough. You know I have an interesting story to tell you. It is 2 o'clock, quarter after 2 in the afternoon, and we need a little break but we are not going to break because we have to finish by 4.

We have a strange phenomenon happening in New Jersey that is very interesting. About 10 years ago we had a few geese flying over our State. They did not stay; maybe they did not like us, I am not really quite sure at this point. But now we find that they are flying over that State by the tens of thousands. It is really amazing to me, and actually many of our golf courses, for example, that have different ponds and water holes and the lakes and so forth have literally thousands and thousands of geese that have decided to join us on their way north.

I think the reason I am raising the parable is that I do not know who talks to the ducks. I do not know who talks to the coots, and I am not sure who talks to those geese. But someplace along the line maybe some of those creatures are beginning to say well maybe they can live with us.

When we speak of expert, there is a snide comment that they make in Congress about experts which I will not deal with today. But when they speak about experts, if you make the right decision, you are a hero. If you make the wrong decision, you are a bum, for whatever that is worth in the course of this discourse, and I think I will let it go.

Now are there any other questions you would like to ask this distinguished panel?

[No response.]

Mr. **Roe**. I want to thank you all very much. You have been excellent witnesses, I respect and understand your position and what your thoughts are and you have contributed a great deal to our thought process.

Ms. **Carr**. Thank you very much.

Ms. **Harrington**. And to Mr. Stangeland, there is terrific bass fishing north of Tallahassee in Lake Jackson, anytime you want to come visit us.

[The prepared statements of Marjorie H. Carr, Dr. John H. Kaufmann, Dr. Elaine Harrington, and Charles Lee follow:]

TESTIMONY
PRESENTED AT THE FIELD HEARING OF THE SUBCOMMITTEE ON WATER RESOURCES
COMMITTEE ON PUBLIC WORKS AND TRANSPORTATION
MONDAY, JUNE 10, 1985
PALATKA, FLORIDA

Statement by Marjorie H. Carr, President
Florida Defenders of the Environment
Gainesville, Florida

Mr. Chairman, I am Marjorie Harris Carr, President of Florida Defenders of the Environment, Inc., a state-wide conservation group with headquarters at 1523 North West 4th Street, Gainesville, Florida, 32601.

Our organization was formed in 1969 in order to gather the facts relative to the environmental and economic impact of construction of the Cross Florida Barge Canal. Nearly 100 specialists in the fields of biology, ecology, economics, geology and hydrogeology volunteered their time and expertise in preparing a printed report, 118 pages long, on the impact of the Cross Florida Barge Canal. These facts, documented and referenced were, we believe, influential in encouraging detailed studies and evaluation on the canal project by an assortment of state and federal agencies involved with the stewardship of our natural resources.

The results of these investigations speak eloquently in subsequent events.

In January, 1971, the barge canal project was halted by federal court order and executive order of President Richard M. Nixon.

In 1976, following a massive and expensive restudy of the project, all the state (Department of Natural Resources, Game and Fresh Water Fish Commission, Department of Environmental Regulation, Division of State Planning) and federal (Department of Agriculture, Department of the Interior, Environmental Protection Agency, Council on Environmental Quality) recommended halting construction.

In December, 1976, Governor Reubin Askew and the Florida Cabinet (6 elected officials) voted to ask Congress to deauthorize the Cross Florida Barge Canal.

In May, 1977, President Carter called for deauthorization of the Cross Florida Barge Canal.

The bill introduced by Senator Lawton Chiles to deauthorize the canal project passed the U.S. Senate in 1978.

Companion legislation dealing with post-project issues was passed by the Florida legislature in 1979.

In 198[illegible], Governor Bob Graham and the Florida Cabinet passed a resolution asking Congress to deauthorize the canal project.

Most recently, a memorial asking Congress to deauthorize the economically-unjustified and environmentally-damaging barge canal project was passed by the Florida Senate with a vote of 33-3 and the Florida House of Representatives with a vote of 105-5.

Mr. Chairman, I submit that it is abundantly clear that the people of Florida do not want a canal dug across Florida from Yankeetown on the Gulf Coast to the St. Johns River on the Atlantic Coast. Further, I submit that this decision has been arrived at following careful studies and deliberations.

Some of the reasons why the people of Florida want this project deauthorized may be summarized as follows:

Construction of the Cross Florida Barge Canal poses a pollution threat to the Florida Aquifer and to the surface waters in the Ocala/Silver Springs area.

The environmental threat that has caused the widest concern is the 28-mile-long ditch that would have been dug down into the water-bearing rocks--the Floridan Aquifer--of Central Florida from about Dunnellon across to Ocala. According to the design of the canal, it is essential to have the bottom of the canal 12 to 15 feet below the water table in that area. The canal is designed to have free interchange between the aquifer and the canal waters, and indeed the barges would float on water of the aquifer. The danger of this plan lies in the fact that the limerock in this area is honeycombed with solution channels of all sizes, from small tubes to great caverns. While the limerock in the region of the canal channel has been found to be quite dense, it also has been found to have innumerable vertical chimneys that extend down to more permeable layers of limerock. Here lateral solution channels develop that may enlarge into immense underground caverns in unpredictable places and numbers.

Because of this structure of the bedrock, pollutants introduced into the canal waters would move quickly, and with relatively little dilution, quite possible teaching nearby springs and wells, whenever sizable solution channels are encountered. The well field of the City of Ocala, the second fastest growing city in Florida, is within a few miles of the canal, and numerous thoroughbred horse farms in the area are dependent on clean well water. Moreover, the flow of underground water in the eastern end of the Summit Reach leads toward Silver Springs.

One of the professional hydrologists opposing construction of the canal is Garard G. Parker, Sr., whose career includes 30 years with the U.S. Geological Survey. In his testimony before the Governor and Cabinet on December 17, 1976, Mr. Parker said, "I deplore the proposed construction of the Cross Florida Barge Canal in the unfinished Summit Reach because I believe that it's going to be a disaster for this area, chiefly caused by expected pollution of the regional groundwater supply in the Floridan Aquifer."

The Cross Florida Barge Canal would use, not conserve water and would compete for water with more important uses (human drinking, agriculture, industry).

The canal project would not create additional water for water supply development in Florida. On the contrary, the project ties up vast quantities of water--both surface and groundwater--to maintain the operational viability of the project.

Operation of the canal locks would have substantial immediate and long-term adverse impacts upon present water users such as municipalities and agriculture, and will preempt future uses of the water in this rapidly developing part of Florida. In times of drought the problems would be exacerbated. It should be noted that the drought of 1980-81 has already caused a drop of some water levels in the canal area below the minimum level needed for floating barges.

The shallow reservoirs are not located in a region of aquifer recharge but instead in an outflow zone. Over 20 springs are found in the Oklawaha Valley in the canal area. Because the reservoirs act as evaporation pans, there is a small net loss of water in this area.

Construction of the Cross Florida Barge Canal would adversely affect endangered and threatened species of animals including manatees.

The Oklawaha and Withlacoochee Rivers have already been damaged by canal construction. If the project was completed, much of the remaining Oklawaha river valley forest would be destroyed, the river would be severely impacted, and the wildlife would suffer. Thousands of acres of scarce forest types would be lost, including the habitat of several species of Endangered and Threatened plants. Most of the benefits to wildlife claimed for canal construction would be minor, temporary, and chiefly to common species. The harmful effects, however, would generally be of major importance, permanent, and would affect more Endangered and Threatened species. Many terrestrial animals, including ten Endangered and Threatened species would permanently lose large areas of scarce river forest habitat. Even many aquatic and water-associated species would lose more from canal construction in the long run than they would gain. Some species of birds would gain temporary benefits from flooded tree habitats in the new reservoirs, but when the trees fell these birds would end up with less habitat than before the canal was built. Eagles and ospreys would gain non-critical feeding habitat, but would lose potential nesting habitat. The Endangered manatee would inevitably suffer increased losses through collisions with boats and barges and from being crushed in the locks. Critical habitat for the manatee has been declared close to both the east and west ends of the canal.

The Cross Florida Barge Canal project is a waste of taxpayers' money. The cost of completing the Cross Florida Barge Canal at 1985 price levels is $605 million. At current discount rates of 8 3/8% for public works projects the canal would cost far more than it would produce in benefits. The benefit/cost ratio at current discount rates would be about .50-1.

Delay in deauthorization wastes money and resources.

The State is unable to use the thousands of acres of land that it bought for canal right-of-way. These idle lands could serve a multitude of public and private purposes such as parks, forests, agriculture and sites for public facilities and a hydropower plant.

Every year since the canal was halted in 1971 the Corps of Engineers (COE) has spent an increasing amount on annual maintenance for the partially built canal. In 1984 the Corps of Engineers spent $1.95 million of taxpayers' money on maintenance and operation.

The six counties that contributed tax money to purchase the canal right-of-way cannot receive repayment until after deauthorization.

Delay in deauthorization will increase the likelihood of extended lawsuits.

Mr. Chairman, will you please deauthorize the Cross Florida Barge Canal.

TESTIMONY
PRESENTED AT THE FIELD HEARING OF THE SUBCOMMITTEE ON WATER RESOURCES
COMMITTEE ON PUBLIC WORKS AND TRANSPORTATION
MONDAY, JUNE 10, 1985
PALATKA, FLORIDA

Statement by John H. Kaufmann, Ph.D.
Co-Chairman, Science Advisory Committee
Florida Defenders of the Environment
Gainesville, Florida

Mr. Chairman, I am John H. Kaufmann and I reside at 2236 North West Ninth Place, Gainesville, Florida. I am Professor of Zoology at the University of Florida and Co-Chairman of the Science Adivsory Committee of Florida Defenders of the Environment, a state-wide, non-profit conservation organization. For the last fifteen years I have carefully followed the developments in the Cross Florida Barge Canal project.

While my main concern has been with the dangerous environmental impacts of canal construction, I have, of necessity, carefully assessed the economic analysis of the project in so far as logic, consistency and veracity are concerned.

Recently the Corps of Engineers was directed by the U.S. House Appropriations Committee to initiate an "economic restudy of the Cross Florida Barge Canal." While the Corps' directive restricts the restudy to four main items of new work, they will depend on figures developed in the 1977 economic restudy. That study contained a large number of inaccurate figures. I would like to call your attention to the most glaring of these errors.

A. FLAWS IN THE 1977 BENEFIT ESTIMATES

1. Recreation

Alleged recreation benefits account for 23.2% of the total annual benefits claimed for the entire project at the current discount rate of 6 3/8% (Table 24c, p. 40, Final Economics report, 1977). (In paragraph D.4 and table 14, pp. 30, 31, Final Economics, the annual recreation benefits at the 2 7/8% discount rate are given as $3,802,000. The figure given in table 24c on p. 40 raises this, without explanation, to $4,465,000, resulting in an unsupported increase of $663,000 in average annual benefits at the 2 7/8% rate. This discrepancy should be corrected if the current study includes an analysis using the 2 7/8% rate.)

a. Benefits based on sunk costs: According to the somewhat contradictory figures presented on p. 30, paragraph D.4, p. 32, paragraph D.6, and p. 40 of the Final Economics report, 70-75% of the alleged recreation benefits are derived from project works already completed. In other words, 16-17% of the total benefits claimed for the canal are based solely on sunk costs. Any analysis that ignores sunk costs must also omit these benefits.

b. Benefits based on spoil islands: The recreation benefits attibuted to several of the six canal reaches seem to be unrealistically high. The most obvious example of this is Reach 6, where a benefit of over $1.5 million annually is claimed (43% of the recreation benefits for the entire canal). Almost all of this alleged benefit was attributed to swimming from the small spoil islands up to 10 miles out in the Gulf of Mexico. When questioned about this surprising figure in 1976, the Corps personnel admitted that the benefit estimate was based solely on anticipated demand for swimming from sandy beaches, ignoring accessibility. In other words, the claimed benefit assumes the same heavy use for these inaccessible sand bars that would be received by a developed beach on the mainland with highway access. Clearly any valid estimate of recreation benefits, even one for the entire project which includes sunk costs, must omit the spurious benefits from Reach 6.

c. Assumption of capacity use: The recreation benefits claimed by the Corps are based on the assumption of capacity use of all facilities throughout the life of the project (Final Economics, p. 30, paragraphs D.4 and D.5). The August 1976 Environmental Restudy Report (p. 86) explains why this is not possible:

> "The analysis of resources available under an alternative does not fully reflect possible impediments to optimum utilization of recreation use such as aquatic vegetation, floating debris, effects of barge traffic, competing uses of the resources, administrative sanctions or conflicts arising from use of resources for more than one recreation activity."

In addition, spills of pollutants, drawdowns, and droughts could all interfere with the use of recreation facilities.

d. Recreation benefits not NET benefits to the economy: Other than the unrealistic benefits claimed for the spoil islands, almost all of the canal's alleged recreation benefits are based on anticipated demand for reservoir based recreation. Yet it can be convincingly argued that there are NO net recreation benefits to be derived from canal waters. The Corps' recreation contractors (the U.S. Bureau of Outdoor Recreation) and the Florida State Recreation Survey both pointed out that there is a surplus of lakes available for recreation in the canal area--200,000 acres within 30 miles of Rodman Reservoir. Thus any recreational use of canal impoundments would represent transfers from other local waters and thus not be eligible for inclusion in the benefit/cost analysis. As stated in Appendix B (p. B-1) of the Final Economics report, "However, the issue of recreational alternatives may be a moot point since the BOR report assumes that sufficient lake type recreation is currently available in the region of Florida through which the canal would pass." In addition, statements on pp. 56 and 85 of the August 1976 Environmental report made it clear that the forest and river recreational opportunities that would be destroyed by canal completion are generally rarer and of higher quality than those to be provided by the shallow canal impoundments. In short, all of the recreation benefits claimed for the canal are highly dubious at best.

2. Fishing

a. Decrease in fishing benefits over time: The alleged fishing benefits assume no decrease from existing (early 1970's) fishing efforts for the life of the project (Final Summary, p. 21, paragraph D.4, Final Economics, p. 34, paragraph E.2). Almost all reservoirs experience a decline in fishing from early post-impoundment levels. This is especially likely in shallow reservoirs like Rodman. The Final Environmental Impact Statement (p. 60, Table 2) states that the "Rodman fishery [can be] preserved but needs intensive management." Effective management sufficient to maintain the reservoir fishery at 1970's levels is impossible without periodic interruption of both fishing and barge traffic during drawdowns. Such drawdowns have already been ruled out by the Corps because they would significantly reduce transportation benefits. Even if such drawdowns were allowed, they would interrupt the fishery for extended periods and still only slow the process of natural lake succession that would inevitably reduce the reservoir fishery (FEIS, p. 45, paragraph 4.19.3).

b. Fishing benefits not NET benefits: Florida has a surplus of lake fisheries. Therefore most of the canal fishing represents a transfer from other waters, not a net gain.

3. Transportation

a. Interruption of barge traffic in Summit Reach during droughts: In order to save $15 million in construction costs, the Corps in 1976 altered the design for the Summit Reach by raising the floor of the canal from the originally planned 28 ft. mean sea level to 31 ft. msl. This means that barges will not float if the minimum ground water level in the Summit Reach falls below 43 ft. msl. The U.S. Geological Survey's estimate of 43 ft. msl. as the minimum was based upon recorded water levels from monitor wells in the area prior to the drought of 1980-1981. According to R. David G. Pyne, a hydrologist with CH2M Hill, Inc., "During May 1981 ground water levels in north-central Florida were typically 2 to 3 ft. or more below previous record low levels, and were at or below 42 ft. msl. at both the east and west ends of the proposed Summit Reach" (letter to Mrs. Carr, March 18, 1982). Mr. Pyne has concluded from various lines of evidence that historic water levels in this part of Florida may have been considerably lower than current records of a few decades' duration would suggest.

In order to prevent costly periodic interruptions of barge traffic, the depth of the proposed cut in the Summit Reach must be increased to at least the original level of 28 ft. msl., with an appropriate increase in the construction costs adjusted to 1985 levels. Increasing the depth of the cut would, of course, increase the probable need for grouting, with another appropriate increase in cost.

b. Speculative "induced move": One third of the entire transportation benefit claimed for the canal was for an unidentified "induced move," that is, a commodity that was not moving by *any* mode at the time, but which *might* be developed and shipped via the canal should it be built. The Corps' transportation benefits contractor (A. T. Kearney Co.), in accordance with Corps regulations, estimated the potential value of the induced move at $843,000 annually. But the Corps, in its B/C computations, claimed an annual benefit from this one potential move of $4.3 million--five times Kearney's estimate. It is difficult to take seriously an economic "restudy" that accepts at face value such a questionably large benefit for a move that was speculative nine years ago, and which may not have any justification now.

c. Gross benefit vs. net benefits: Any benefits claimed in a B/C analysis are supposed to be net benefits to the national economy, not gross benefits to particular shippers. Yet Meta Systems, Inc., one of the Corps' contractors, pointed out (Appendix B, p. B-1, Final Economics) that the Corps' benefit figures do not reflect the effects of barge traffic on competing carriers, such as railroads. Meta also pointed out that the use of published rates for carriers rather than variable costs in computing transportation benefits overestimates benefits. Finally, Meta stated that "For those cases in which barge and rail rates differ by a few percent, it is unlikely that all traffic will be switched from rail to barge whether or not rail rates are reduced." The Corps continues to ignore all of these qualifications in calculating benefits.

d. User fees: Transportation benefits for the canal will be reduced as waterway user fees rise. There is strong and increasing support in both Congress and the White House for substantially increasing such fees. Any valid estimate of transportation benefits for decades to come must reflect the inevitable effect of such fees.

B. FLAWS IN THE 1977 COST ESTIMATES

1. Environmental losses in the Oklawaha River Valley

Federal Judge Harvey M. Johnsen, in ordering a new economic and environmental study of the project (Opinion and Judgement, filed February 4, 1974, in Jacksonville, Florida), defined an adequate assessment as follows:

> "Among other things, I am not able to see how such an EIS properly could escape having a current cost/benefit evaluation made of the whole project, with this, of course, necessarily including a proper quantification of the various environmental pluses and minuses that are involved. To view the situation otherwise, it seems to me, would not comport with the full disclosure intent of NEPA...."

Yet in its B/C analysis, the Corps valued at zero ($0.00) the aesthetic, wildlife, and recreational resources of the Oklawaha River Valley that would be lost due to canal construction. The Corps claimed (FEIS, p. C-403), in its reply to FDE's earlier mention of this omission, that "...there is no accepted method for quantifying natural systems costs and benefits for use in a project benefit-cost ratio calculation." Yet some of the same values are quantified and figure prominently in the Corps' benefit calculations. For example, while reservoir-related recreation accounts for a significant fraction of the project's alleged benefits, not one cent is included among the costs for wild river and forest recreational opportunities destroyed. Dr. Ronald North, the "Highest and Best Use" contractor, provided one method for quantifying environmental losses. The Corps rejected his method as "experimental" even though some of its own benefit calculations are based on similar methods. Since 1977 a number of methods have been developed and come into use for quantifying environmental losses. No economic "restudy" of the canal can be accepted as valid so long as the Corps continues to ignore Judge Johnsen's instructions in this regard.

2. Environmental risk in the Summit Reach

The Corps also failed to include in its cost figures a realistic accounting for the risk of aquifer pollution in the Summit Reach. The Florida Cabinet on February 20, 1973, recommended raising the discount rate substantially for projects such as the CFBC which involve significant environmental risk. The Corps' only recognition of this risk was to include $15 million for grouting. Independent hydrologists with far more experience in this area than the Corps' engineers estimated the cost of effective grouting (if indeed it were possible at all) at up to $150 million. These hydrologists include William Hurst, Dr. Ignacio Garcia-Bengochea, David Pyne, Garald Parker, and Dr. Martin Mifflin.

3. Timber losses

The Corps (FEIS, p. 8, table 1d) claimed that the economic value of long term timber production foregone as a result of canal construction was included in the land costs in the B/C analysis. According to the U.S. Forest Service, however, these land costs underestimate the timber losses by a factor of 8 to 10, depending on the final route chosen. The Forest Service estimated the lost timber value at $30.8 to $69.4 million.

4. Aquatic weed control

The Corps badly understated the cost of water weed control in the project reservoirs sufficient to provide the claimed recreation and fishing benefits. The Corps included in its B/C computations only enough money to treat less than 1% of the reservoirs outside of the ship channel (FEIS, Appendix B). The U.S. Department of the Interior estimated the cost of effective control to be approximately $2 million annually more than the Corps budgeted.

Because the Corps claimed maximum recreational benefits with only minimal costs for water weed control, the U.S. Bureau of Outdoor Recreation provided the Corps with a supplementary report indicating the relationship between the amount of weed control achieved and the percentage of recreational benefits that could be claimed. The Corps ignored the entire supplement and continued to claim maximum benefits with only minimal weed control.

5. Corps cost overruns

In the 1977 reports canal construction costs were presented as a lump sum, preventing any evaluation of their validity. The Corps has a history, however, of underestimating the costs of its projects. A Congressional Oversight Committee reported in 1972 and 1973 that the actual costs of all Corps waterways projects averaged 80% more than the costs used to justify the projects. Senator Proxmire stated that in 1976 the Corps' overruns on 178 waterways projects averaged 110%. The final cost of the Tenn-Tom canal will be about seven times the Corps-estimated cost used to justify its construction. We believe that a realistic economic analysis of the CFBC should include a contingency for cost overruns.

C. ADDITIONAL BENEFIT CATEGORIES

We are disappointed that the Corps has decided to go ahead with the current "restudy." Not only is it built on a seriously flawed foundation (the 1977 economic analysis), it reconsiders without justification several categories of potential "benefits" that were rejected for good reasons in 1977. We are aware of the Corps' claim that it has received "guidance" from Congress to conduct the current benefit search. We understand from Senator Lawton Chiles, however, that Public Law 98-50, approved by a Conference Committee of both houses of Congress in July, 1983, advised the Corps to spend no further money for an economic restudy of the CFBC. We join Senator Chiles in asking why the Corps has pushed ahead with this new search for benefits in spite of Congressional guidance to the contrary in Public Law 98-50.

1. Area Redevelopment benefits

In 1977 this category was rejected as inappropriate for the CFBC project by Chief of Engineers General Morris and by Secretary of the Army Alexander. We understand from the Corps that the CFBC region currently has no areas designated as eligible for such benefits, and that therefore this category will be dropped.

2. Regional Economic Development benefits

In the 1977 study an attempt to discover RED benefits, based on the Industrial Location method, was unsuccessful. This cateogry was also rejected by General Morris and by Secretary of the Army Alexander. The Corps now plans to look for such benefits by a different method that seems designed to produce more benefits. We continue to insist that any method used must clearly show NET benefits to the national economy if it is to be taken seriously. Furthermore, we understand that federal regulations prohibit any benefits generated in this cagetory from being considered unless the project has an otherwise positive B/C ratio. This requirement would clearly eliminate RED benefits for the CFBC in the real world, where economic decisions are made on the basis of current economic criteria. Any attempt to justify RED benefits on the basis of a marginal or positive B/C ratio based on the obsolete 2 7/8% discount rate would be unacceptable.

3. 10% contingency for "undiscovered" transportaiton benefits

The Corps plans to reconsider this category despite written statements by both General Morris and Secretary of the Army Alexander in 1977 that such a contingency is inappropriate for this project because of the exhaustive search for such benefits already made. We still maintain that the original transportation benefits, which the Corps plans to accept without reevaluation, are already inflated and insupportable. How can the Corps justify accepting, without reevaluation, the original transportation study, and still consider adding contingency benefits that were rejected by the Corps on the basis of the original study?

The Corps has rejected a request from the State Office of Planning and Budget to include a contingency figure for cost overruns that for past Corps waterways projects have often been 100% or more. To include a highly debatable transportation benefit contingency of up to 10%, while ignoring much larger and more probable cost overruns would, in our opinion, show pro-canal bias.

4. Coal shipments

This is the only category for which conditions may have changed since 1977. We still do not believe that a valid study will show potential benefits from shipping coal through the canal because cheaper modes are available to area power plants. Especially enlightening in this regard is the operation of the Florida Power Company's plant at Crystal River. This plant has its own deep water port that will accomodate the 13,000-14,000 ton capacity Gulf barges, coming directly from the mouth of the Mississippi River. Use of these barges is certainly more economical than using the 1500 ton river barges that will fit through the CFBC. Yet the Crystal River plant gets at least one-half of its coal by unit train because the unit train rates are competitive with Gulf barge rates.

In conducting the coal transportation study, the Corps has properly agreed to assume that the "Missing Link" in the Gulf Intracoastal Waterway will *not* be completed, and to include the costs of building and operating a transloader at the west end of the canal, if one is needed, in the calculations for determining savings, if any, from shipping coal through the canal. We will be carefully following the progress of the coal study and analyzing it with the aid of Dr. Joseph Carroll, Head of the Transportation Systems Division of the Transportation Institute at Pennsylvania State University.

D. DISCOUNT RATE

The Corps has announced its intention to calculate a B/C ratio for the entire project based on the "authorized" 2 7/8% discount rate, and another based on the current discount rate but ignoring the cost of all previous construction (sunk costs). Any analysis that ignores sunk costs must of course also ignore the substantial recreation benefits based on sunk costs (16-17% of the entire benefit package for the project). This is not sufficient, however. Since *all* of the benefits depend on the sunk costs, any B/C ratio which ignores sunk costs gives a false picture of the economic feasibility of the entire project. We therefore request that the Corps also present a B/C/ ratio *for the entire project* based on the current discount rate, or at least using the current rate for work not yet done and for sunk costs an average of the rates in force when the work was actually done. A B/C ratio for the entire project based on the obsolete 2 7/8% rate has no meaning in the real world, and serves only to help hide the truth about an economically indefensible project.

E. RECOMMENDATIONS BASED ON THE STUDY

In our opinion the current study is a waste of many people's time and energy and a waste of the taxpayer's money. Unless the many flaws in the 1977 benefit-cost analysis are corrected, the alleged "update" is falsely slanted toward a positive B/C ratio before it even begins. Continued use of the 2 7/8% discount rate further obscures the economic realities of the project.

We firmly insist that any conclusions or recommendations made by the Corps as a result of this "update" be justified by current economic reality, as requested by the State of Florida. We cannot accept such statements as that by General Morris in his 1977 letter of transmittal that economic justification of the canal was "marginal" (based on a B/C ratio of 1.00 to 1, using a 2 7/8% discount rate). By then current standards the project was clearly not marginal, but rather an obvious waste of money. By now the B/C ratio would be much worse if valid benefit, cost, and discount rate calculations were used. The report should be presented by the Corps in such a way as to make clear the project's status according to accurate and current economic criteria, so that it cannot be misused by canal proponents to further cloud the issue and delay deauthorization.

SIERRA CLUB
FLORIDA CHAPTER

HEARING ON CROSS FLORIDA BARGE CANAL

The Florida Chapter of the Sierra Club joins with concerned legislators and environmentalists to request the deauthorization of the Cross Florida Barge Canal.

In a state where pressures of growth management and concern for the environment are in the forefront of the minds of its citizens, we feel that to allow this ill-conceived project to drag on is not in the public interest.

Of the three bills pending in Congress, the Sierra Club supports the positions of Senator Chiles in S. 792 and Representatives MacKay, Nelson, Young, McCollum, Shaw and Mack in HR 1813. Both these bills request deauthorization. We urge the support of Congress in helping Florida to remove the time, effort, attention and money the project absorbs from other necessary efforts for the Florida environment.

The canal creates environmental disturbance, it may effect groundwater resources, and it may even contaminate groundwater. It would also use huge quantities of water, drawing that precious resource away from necessary uses, such as drinking water for the population.

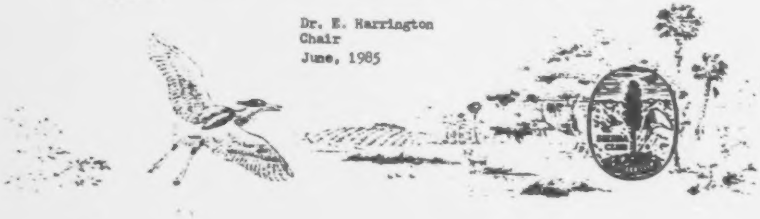
In a time of drought for Florida and the whole east coast of the United States, to continue to support this project is folly.

To continue to support this project in the face of the stated opposition of Florida's chief legislators is folly.

In view of Florida 's recent legislative commitments to preserve the environment and minimize disturbance of rivers and wetlands, the project is plainly against the stated wishes of the people and the lawmakers. The Save Our Rivers Act, the Henderson Law (Wetlands, 1984) and the provisions regarding water resources in the newly approved state plan all speak to concerns, plans and guiding principles that are diametrically opposite to the plans for this canal project.

With the support of Congress for this timely deauthorization, Florida can turn its attention to other projects and the Cross Florida Barge Canal, with all its attendant problems, can finally be forgotten.

Dr. E. Harrington
Chair
June, 1985



SINCE NINETEEN HUNDRED "THE VOICE OF CONSERVATION"

TESTIMONY OF CHARLES LEE,
SENIOR VICE PRESIDENT,
FLORIDA AUDUBON SOCIETY.
Before the Subcommittee on Water
Resources, Committee on
Public Works and Transportation,
Palatka Florida, June 10, 1985

I am Charles Lee, Senior Vice President of the Florida Audubon Society. Our organization is the oldest and largest conservation and environmental group in the State of Florida, founded in the year 1900, with some 35,000 members and 46 local chapters in the state today. We are affiliated with the National Audubon Society, which serves as our voice on issues of national significance in Washington.

Honorable members of the committee, I am not here today to provide the committee with any information about the Cross Florida Barge Canal project which will duplicate the fine testimony provided by Florida Defenders of the Environment, and the state agencies and officials present here. I believe that their presentations will cover all of the technical points well. I have attached to my presentation and submitted for the record information on these matters prepared by F.D.E.

Last year on June 28th the U.S. House of Representatives voted 204--201 against the deauthorization of the Cross Florida Barge Canal Project.

FLORIDA AUDUBON SOCIETY
1101 Audubon Way • Maitland, Florida 32751 • (305) 647-2615

The Florida Delegation to the U.S. house voted 13--6 in favor of deauthorizing the canal, but like the vast majority of Floridians, and taxpayers throughout the nation, the majority of the Florida Delegation wound up on the losing side of that vote.

When you consider that maintaining the Cross Florida Barge Canal as an authorized project--let alone restarting construction on it -- costs the federal taxpayer money and works against eliminating the deficit this nation faces, it is amazing to me that on June 10, 1985 we even have to be here discussing this question at all.

It should have been clear last year, and it is clear without dispute in 1985 that the Cross Florida Barge Canal is simply not desired to continue as an authorized project by the vast majority of the people of this state. That fact is backed by the action of every statewide elected body that has ever faced the question. Lets look at the record:

* In July, 1972, nearly 13 years ago the elected Governor and Cabinet of Florida unanimously suspended their earlier support for the Canal Project.

* In January, 1977, over 8 years ago the elected Governor and Cabinet of Florida recommended against completion of the Cross Florida Canal Project, and requested Congress to deauthorize the project.

* In 1979 the Florida Legislature enacted Chapter 79-167, Laws of Florida which over 6 years ago provided the state counterpart to federal deauthorization, providing for the orderly disposition of canal lands, facilities, and assets upon federal deauthorization.

* In May, 1985 the Florida Legislature adopted House Memorial 378, which makes findings that the canal would have a deleterious effect upon the ecology of the state, would adversely effect the freshwater aquifers of the state, and which specifically urges the Congress of the United States to deauthorize the project.

Opposition to the Cross Florida Barge Canal Project in Florida has thus not only gained official sanction by statewide elected bodies, that opposition has also withstood the test of time. Opposition to the canal and official support for deauthorization has been state policy through the terms of two Governors in this state, and has been provided for as the policy of the Legislature during the terms of leadership of three different Presidents of the state Senate, and three different Speakers of the state House of Representatives. Honorable members of the committee, this question has been settled in the state of Florida for a long time. We think it is high time that it be settled in the halls of Congress as well.

Those few people in Florida who for whatever reason continue to support the Canal and oppose deauthorization have now simply resorted to tactics of delay and confusion. For example, even though the Legislature provided for the state actions necessary to deauthorize the project within state government some six years ago, arguments were presented on the Floor of the U.S.House of Representatives last June to the effect that the Legislature had at the time not taken a position on federal deauthorization. Well, for the sake of anyone that might harbor any doubt, we ran through the motions again, and now the Legislature has spoken on the topic for the second time in six years through a Memorial to Congress, and today the Governor, Attorney General, and legislative leaders of the State of Florida have been present to deliver it personally. This nation has enough difficulty providing for needs that people are crying out for in support. We pray that in 1985 Congress will have the wisdom to deauthorize a project the people of Florida have said clearly, and repetitively that they dont want or need.

CROSS FLORIDA BARGE CANAL UPDATE

In recent months a great deal of pro-canal propaganda has been released to the media, and it has contained gross errors. The group of canal boosters in Jacksonville is seeking to inflate the economic justification, gloss over the environmental dangers, and generate political support for the all-but-dead project.

It is time, once again, for us to review the facts and report on new developments — none of which should bring comfort to the pro-canal forces.

INCREASING DEVELOPMENT IN THE OCALA REGION MAKES PROTECTION OF THE AQUIFER MORE IMPORTANT

The environmental threat that has caused the widest concern is the 28-mile-long ditch that would have been dug down into the water-bearing rocks — the Floridan Aquifer — of Central Florida from about Dunnellon across to Ocala. According to the design of the canal, it is essential to have the bottom of the canal 12 to 15 feet below the water table in that area. The canal is designed to have free interchange between the aquifer and the canal waters, and indeed the barges would float on water of the aquifer. The danger of this plan lies in the fact that the limerock in this area is honeycombed with solution channels of all sizes, from small tubes to great caverns. While the limerock in the region of the canal channel has been found to be quite dense, it also has been found to have innumerable vertical chimneys that extend down to more permeable layers of limerock. Here lateral solution channels develop that may enlarge into immense underground caverns in unpredictable places and numbers.

Photographs of a solution channel. The size can be compared with the two men in the foreground.

Because of this structure of the bedrock, pollutants introduced into the canal waters would move quickly, and with relatively little dilution, quite possibly reaching nearby springs and wells, whenever sizable solution channels are encountered. *The well field for the City of Ocala, the second fastest growing city in Florida, is within a few miles of the canal, and numerous thoroughbred horse farms in the area are dependent on clean well water. Moreover, the flow of underground water in the eastern end of the Summit Reach leads toward Silver Springs.* It is important to note that the State has agreed that the federal government will not be liable for any damages due to construction of the canal.

The Corps tries to play down this danger by minimizing the likelihood of encountering such channels, or by proposing to fill them with cement grouting. A paltry $15 million has been budgeted by the Corps for this grouting. Professional hydrologists familiar with the Floridan Aquifer point out, however, that the channels are likely to be larger and far more abundant than the Corps expects, and that grouting them with cement, if indeed possible, would be prohibitively expensive — costing up to hundreds of millions of dollars. One of the professional hydrologists opposing construction of the canal is Garald G. Parker, Sr., whose career includes 30 years with the U.S. Geological Survey. In his testimony before the Governor and Cabinet on December 17, 1976, Mr. Parker said, "I deplore the proposed construction of the Cross-Florida Barge Canal in the unfinished Summit Reach because I believe that it's going to be a disaster for this area, chiefly caused by expected pollution of the regional groundwater supply in the Floridan Aquifer."

THE CFBC WOULD USE, NOT CONSERVE, WATER

The canal project would not create additional water for water supply development in Florida. On the contrary, the project ties up vast quantities of water — both surface and ground water — to maintain the operational viability of the project.

Operation of the canal locks would have substantial immediate and long term adverse impacts upon present water users such as municipalities and agriculture, and will preempt future uses of the water in this rapidly developing part of Florida. In times of drought the problems would be exacerbated. It should be noted that the drought of 1980-81 has already caused a drop of some water levels in the canal area below the minimum level needed for floating barges.

The shallow reservoirs are not located in a region of aquifer recharge but instead in an outflow zone. Over 20 springs are found in the Oklawaha Valley in the canal area. Because the reservoirs act as evaporation pans, there is a small net loss of water in this area.

Shows the frequency with which these vertical solution channels or "chimneys" can occur. Both photographs were taken in an area typical of the Ocala group limestone formation through which the canal would be dug.

THE CROSS-FLORIDA BARGE CANAL NO LONGER HAS SPONSORS AT EITHER THE STATE OR FEDERAL LEVEL

As a result of economic and environmental studies of the canal made in the 1970's, both federal and state support for the project have disappeared. Key developments were as follows:

(continued on next page)

(This is a brief update on the Cross Florida Barge Canal prepared by Marjorie H. Carr. For references or further details, please write or call Florida Defenders of the Environment, 626 North Main Street, Gainesville, FL 32601, telephone 904 372 6965.)

(continued from previous page)

January 15, 1971—Temporary injunction halting construction by a U.S. Federal Court
January 18, 1971—Project completely halted by President Nixon
December 1976—Governor and Cabinet oppose further construction, and ask U.S. Congress to deauthorize the project
February 1977—Chief of Engineers, Corps of Engineers, recommends CFBC project be terminated
October 1978—Deauthorization bill passes U.S. Senate. (Even though the deauthorization bill had support of 11 of the 15 Florida congressmen, it did not reach the floor of the U.S. House because of the opposition of Mr. Bennett and Mr. Chappell.)
May 1979—Florida Legislature voted to carry out the recommendations of the Governor and Cabinet
August 1981—U.S. Federal Court ruled that previous injunctions will remain in effect

THE CFBC WOULD NOT RESULT IN 20,000 NEW JOBS IN NORTH FLORIDA

This claim is based on a misreading of the CFBC restudy report and cannot be supported.

Cost of completing the CFBC at 1982 price level	**$474,000,000**
Money already spent	**73,000,000**

CURRENT WATER POLICY INTEREST RATES REDUCE CFBC'S BENEFIT/COST RATIO TO ABOUT 50¢ ON THE DOLLAR

The CFCB is a federal public works project and the Corps of Engineers, in determining the benefits and costs of a project, is constrained to follow the guidelines set down in the Water Resources Council's Principles & Standards.

The benefits and costs of a project, after being discounted at an interest rate prescribed for waterway projects, should have a ratio of 1 to 1 or better before public funds — tax monies — are allocated.

When the canal was halted in 1971 the COE claimed a B/C ratio of 1.7! to 1, using a 2-7/8% interest rate. In 1976, after a new economic restudy, and using the then current interest rate of 6-3/8%, the Corps reported a B/C ratio of .63 to 1. (They also reported that at 6-7/8% the ratio would drop to .58 to 1.) Today the current interest rate on Water Projects is 7-5/8%. This would reduce the B/C ratio to about 50¢ on the dollar.

SPECULATIVE FUTURE COAL MOVEMENTS THROUGH THE CFBC HAVE NOW EVAPORATED

There is less economic justification for the canal project today than there was in 1976 when the state completely removed its support of the project. At that time the Corps listed as a possible benefit a speculative future coal movement through the canal. Today that speculation is gone. Power plants in the area made other plans and commitments. The area plants are: 1) the Florida Power & Light oil-fired plants at Sanford on the upper St. Johns, 2) the two Seminole Electric plants now being completed at Palatka, and 3) the two Jacksonville Electrical Authority plants.

The Seminole Electric Cooperative has signed a favorable 22-year contract for delivery of all its coal for the Palatka plants by barge, using existing waterways to Port St. Joe and unit train from there to Palatka. They have no use for the CFBC. The JEA is planning a coal transloading and storage facility on Blount Island that would provide the option of using unit trains, ocean barges down the east coast, or freighters from abroad — all of which would be cheaper than moving coal through the Cross-Florida Barge Canal in the small barges for which it is designed. The Blount Island facility will be large enough for use by Florida Power & Light as well — if it should convert its oil-burning plants at Sanford to coal.

MORE FACTS ON CFBC

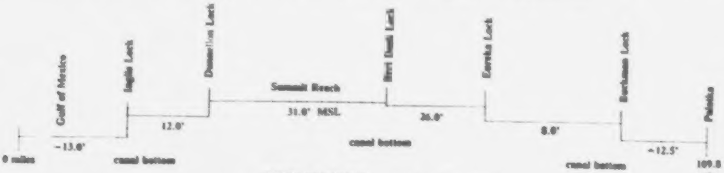
At the time work was stopped on the canal in January 1971, the following had been constructed: 2 dams, 3 of 5 locks, and 4 of 11 highway bridges, and 25 of the 109 miles of canal channel have been dredged — 9 miles of which are out in the Gulf of Mexico.

In the years since the canal was halted the COE has spent an increasing amount on annual maintenance and operation. Last year, $1.6 million of taxpayers' money was spent on maintenance and operation for the project.

Design of the canal. The canal was designed to be 12 feet deep and 150 feet wide. It was planned that barges approaching from the west would be locked up to the level of Lake Rousseau by Inglis Lock, and then up to the Summit Reach by Dunnellon Lock (not yet constructed). After traveling the 28 miles of the Summit Reach from Dunnellon to near Ocala, the barges would be locked down the Oklawaha Valley in the Bert Dosh (not yet constructed), the Eureka, and finally the Buckman Locks. At that point the barges would be at the level of the St. Johns River.

Damage done by 1971. The 6-mile-long stub of canal that parallels the Withlacoochee River from Inglis to the Gulf of Mexico has permitted saltwater intrusion all along its length. Diversion of water from the lower Withlacoochee River to the canal has decreased flow in the river and permitted saltwater to move upstream.

On the eastern end, 16 miles of the Oklawaha River Valley has been deforested and flooded. Rodman Dam, located 8 miles from the mouth of the Oklawaha, has prevented the normal migration of fish up and down this most important tributary of the St. Johns River. Fortunately, since Eureka Lock and Dam have never been operational, the 20 miles of the beautiful Oklawaha from Eureka to Silver Springs has been saved. Once Rodman Dam is removed, the flooded 16-mile section will restore itself in a relatively short time.



CFBC PROFILE   MSL = mean sea level

Citrus County Audubon Society

Affiliate National Audubon Society and Florida Audubon Society, Crystal River, Florida 32629

June 4.1985

-Hearing--Florida Barge Canal De authorization
St. John's Water Management District Building
Palatka, Florida

Senator Robert Rowe:

I regret that other commitments prevent me from attending the hearing today. Mrs. Donohoe, the Conservation Chairman of our Citrus County Audubon Society, has agreed to deliver this letter - to the hearing for me.

When I moved to Florida twelve years ago, one of the first bits of news I heard about the environment was that President Nixon had stopped the work on the Cross Florida Barge Canal. Here we are twelve years later still allowing interests with a local point of view to keep this unsound project alive. I urge you to expedite its long delayed demise.

Our Florida Legislature voted for deauthorization two years or more ago; this year they passed a memorial urging again that it be done. It seems high time to recognize that the commercial interests that cannot accept that are going in the face of the votes of the elected representatives of all the people of Florida.

Studies have indicated that completion would be economically unsound. Reliable conservationists have pointed out again and again that such a canal would be a great threat to the water quality and supply of the whole state. The full impact of making an island of the state of Florida south of the canal is too great and too dangerous to speculate about. Florida's ecology is fragile and to cut off underground water sources from north of the area might well make a desert of the area where water is more scarce every day.

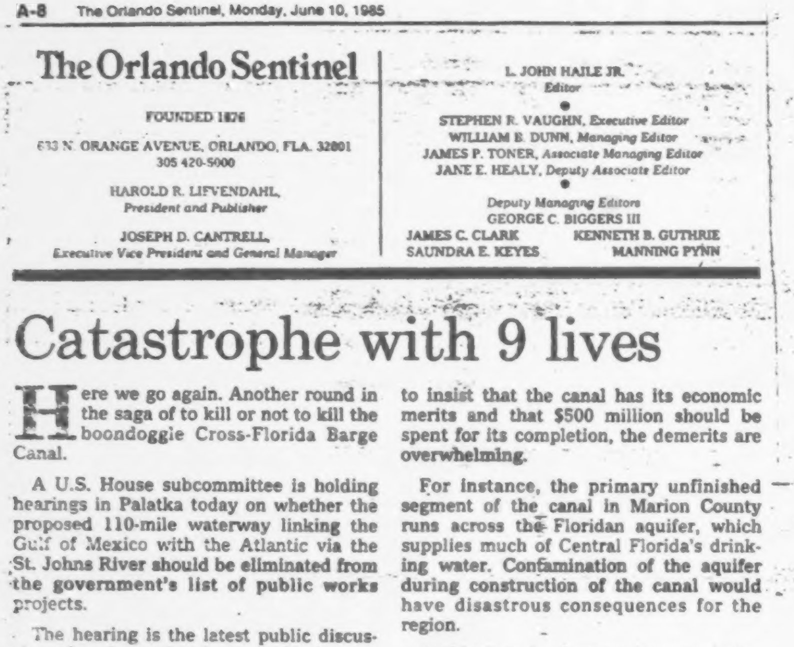
There are beautiful areas now lying in neglect because they cannot be restored until the canal's fate is sealed. Other areas would be destroyed if the work were to continue. The present limbo prevents restoration and conservational or recreational use of the areas that have been altered by the work that has been done so far.

We urge this hearing to recommend the immediate deauthorization and end this sad state of affairs.

Respectfully,
Helen E. Smith
Helen E. Smith
Former President of Citrus County Audubon
Currently Education Chairman

HELEN E. SMITH
11736 W. BAYSHORE DRIVE
CRYSTAL RIVER, FL 32629

795-5641



A-8 The Orlando Sentinel, Monday, June 10, 1985

The Orlando Sentinel

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Catastrophe with 9 lives

Here we go again. Another round in the saga of to kill or not to kill the boondoggle Cross-Florida Barge Canal.

A U.S. House subcommittee is holding hearings in Palatka today on whether the proposed 110-mile waterway linking the Gulf of Mexico with the Atlantic via the St. Johns River should be eliminated from the government's list of public works projects.

The hearing is the latest public discussion of an issue that instead of being put to death has been *almost* talked to death.

For years the governor, the Cabinet, state agencies and most members of Florida's congressional delegation have been saying, "Yes ... ditch the canal." Their pleas have been ignored. The Senate has voted twice in recent years to kill it. But as recently as last year the House voted 204 to 201 to keep the project going. Incredible.

Now the chairman of the House subcommittee on water resources is insisting that the project be put through yet another hearing before Congress can consider killing it. So Gov. Bob Graham and a contingent of Florida's most high-powered public officials, along with business and environmental leaders, will be out in force today to reiterate President Richard Nixon's reasons for halting construction of the canal 13 years ago: It is environmentally and economically unsound. In other words, it's a disaster.

While old die-hards such as Reps. Claude Pepper and Bill Chappell continue to insist that the canal has its economic merits and that $500 million should be spent for its completion, the demerits are overwhelming.

For instance, the primary unfinished segment of the canal in Marion County runs across the Floridan aquifer, which supplies much of Central Florida's drinking water. Contamination of the aquifer during construction of the canal would have disastrous consequences for the region.

And look at the damage that completion of the canal would have on the Oklawaha River, which is among the most scenic rivers in the state. Florida's chief environmental officer, Victoria Tschinkel, has compared it to the wipeout of the Kissimmee River in the 1960s.

There also have been problems caused by Congress' foot dragging on deauthorizing the canal project, which was launched 20 years ago. An example is the nightmare of driving two-lane State Road 40 from Ocala to Daytona because canal property is holding up efforts to four-lane the highway.

Those are just some of the reasons that Gov. Graham and other state leaders will be citing in testimony today before the House subcommittee.

Let's just hope that committee members will be listening closely. You would think that the mere fact that so many state leaders are saying no to federal aid, particularly in a time of an increasing federal deficits, would be enough to get rid of this boondoggle.

Mr. Roe. I believe that the attorney general has arrived. Attorney General Smith, if you are here and prepared, we would like to hear from you. Thank you for joining us, I know you had a very busy morning and we are pleased that you could come this far. So we would like to welcome you very much for joining us and we would go ahead with your comments.

TESTIMONY OF HON. JIM SMITH, ATTORNEY GENERAL, STATE OF FLORIDA, ACCOMPANIED BY LOUIS HUBENER

Mr. Smith. Thank you, Mr. Chairman. I join with my colleagues who were here earlier in welcoming all of you to Florida and I appreciate the opportunity to discuss some of the legal issues involved in deauthorization of the Cross-Florida Barge Canal.

Mr. Roe. If I may suggest, General, your statement will appear in full in the record, and if you would summarize it we would appreciate it because we have a time problem.

Mr. Smith. Yes, sir; I have a brief summary.

The State, as you know, wants an end to the barge canal; both the cabinet and the Florida Legislature have adopted resolutions urging deauthorization and Florida has held this position almost 13 years.

My purpose, however, is not to discuss the reasons why the canal should be deauthorized, but the legal consequences of deauthorization about which there has been much confusion.

My office has done extensive legal research on the disposition of canal lands and structures upon deauthorization. Although we cannot predict what actions the court may eventually take, we believe your questions can be answered with a reasonable degree of certainty.

The Federal legislation now pending provides that Lake Oklawaha would continue to exist and would be operated as a federal recreation area. With that legislation in place, the central question would be whether easements obtained by the government without taking title to the land expire when the stated purpose for taking the land changes. We think not. We find nothing in the law that enables the owner of an underlying fee to terminate the easement when the public use or its purpose changes. Nor is there a requirement for compensation if the change in use is no more onerous than the original use and the fee owner has not suffered any damage.

The case is made stronger by the fact that use of the land will be the same general nature after deauthorization. Lake Oklawaha will remain as it is, but will be used for recreation rather than barge traffic.

I think the recent decision of a Florida appellate court as well adds strength to the State's legal position. The court inferred in *Canal Authority* v. *Mainer* that continued public use would prevent reversion of the ownership. There is no question that the Lake Oklawaha easements will continue to be in public use for purposes of recreation and water management after deauthorization. Clearly there can be no argument that these uses of land are more onerous than its use for barge transportation. In fact, the burden on the land is exactly the same as that which was intended at the time of taking; that is, flooding.

I refer you to chapter 374 of Florida Statutes, which provides that fee title, easements and any other interests in land held by the canal authority are to be vested in the internal improvement trust fund and held there until the legislature determines their disposition. This act specifically states that these interests shall not revert; however, easements that were not flooded or subjected to any public use may ultimately revert to the former owners. I should remind you that the owners of 97 percent of the land were paid full value, just as they would have been paid if the state had taken a fee interest.

Mr. Chairman, the State of Florida has made it abundantly clear that it has no wish to see the canal completed. It genuinely fears its environmental consequences. In addition, the legislature has expressed in chapter 253, its intent to conserve and protect the financial resources and scenic view of the Oklawaha River. It has also expressed its willingness to transfer to the Federal Government these perpetual easements for flooding all lands associated with the barge canal from Eureka lock to the St. Johns River.

Deauthorization, under the terms of the pending Federal legislation, will provide an orderly and timely resolution of disputes over the land titles. On the other hand, failure to deauthorize the canal, which in my judgment will never be built, will allow legal uncertainties to continue. We believe that the canal must be deauthorized and we are confident that the weight of the law is on our side in retaining the canal properties in public ownership and for public use.

I will be happy to answer questions.

Mr. ROE. I thank you for your statement.

Let me ask you a question on that specifically. Did I hear you say that 97 percent of the easements and land acquisitions were paid in full, full value?

Mr. SMITH. Yes, sir.

Mr. ROE. Ninety seven percent. In your judgment, from the research that your department has done and you have done yourself, are there any reverters there that relate to the easements under the lake that could be operative if——

Mr. SMITH. In our judgment, the key is whether there is a continued public use, and we think clearly——

Mr. ROE. Is it fair to say then to say from your judgment, regardless of what decision the Congress ultimately makes, that—there is a certain integrity, to this system regardless because the lake is there.

Consequently, what I am considering here is that if that land was turned over to the Federal Government, in your judgment, that would eliminate the legal problems as far as reverters and claims against that land?

Mr. SMITH. Well I think it could continue under State ownership or under Federal ownership——

Mr. ROE. Public ownership.

Mr. SMITH. Public ownership and public use is the key.

Mr. ROE. And public use, OK. Any questions? The gentleman from Minnesota.

Mr. **Stangeland**. I have no questions, I just thank you Attorney General for coming and for clarifying the legal aspect.

Mr. **Smith**. Yes, sir. And I would like to emphasize I think that we are in absolutely the worst situation, you know, the limbo. We need deauthorization and I think just the continuing status quo will cause some civil problems.

Mr. **Roe**. The gentleman from Florida.

Mr. **Shaw**. I have no questions, Mr. Chairman. I think that Mr. Smith certainly has cleared up exactly what we have been concerned with and the main problem that we have been wrestling with all morning, and that is our concern over continuing public use of the land, particularly on the bottom of that lake, and you have just zeroed right in on the questions we were asking. I do not know whether it is the advance work your staff people have been doing, but your statement is right on point to our concern and we certainly appreciate your testimony.

Mr. **Smith**. That is the key issue that we would like to see resolved in moving ahead on it.

Mr. **Shaw**. I appreciate you getting your schedule in line so that you could come here. I know that you had a great deal of personal inconvenience and we appreciate it very much.

Mr. **Smith**. Yes, sir.

Mr. **Roe**. The gentleman from Florida.

Mr. **Chappell**. Mr. Attorney General, it is good to see you again.

Mr. **Smith**. Yes, sir; good to see you, Bill.

Mr. **Chappell**. On the question of easements, I notice you recite in the one case, that is apparently the *Hasty-Greene* case?

Mr. **Smith**. No, sir, I was reciting the *Mainer* case.

Mr. **Chappell**. I am looking on page 3.

Mr. **Smith**. I am sorry, that does include it. That was a consolidation of cases, you are right.

Mr. **Chappell**. It says here that—

> The Supreme Court did not discuss the easement issue on which the district court had said "We reach a different result regarding the easements. * * *" The easements, by the very language of their creation, made their existence limited or conditioned upon use by the canal authority for the canal project now abandoned. The document that conveys that easement to the Canal Authority from Hasty-Greene declares: "To have and to hold said rights and easement unto the Grantee and its assigns forever. * * *"

The point being that the court ruled in that case that it was a clear conditioned easement.

Mr. **Smith**. Yes, sir; in that situation, that is correct.

Mr. **Chappell**. And wherever an easement was given, either without proper consideration or where it was a raw, pure easement where the fee was not taken into account, I do not think you are saying that even if we define easement where the full value was not paid, that the easement would be bettered as a fee passage of title—or a passage of fee simple title.

Mr. **Smith**. I think the test is whether there is a continuing public use of the easement, and I think the strength of our legal position is buttressed by the fact that they did, in this instance, pay full fee value.

Mr. **Chappell**. One other point on the question of enhancement. The court recently ruled in some cases that where enhancement had not been taken into consideration, the fee did not pass without further remuneration, and therefore constituted full compensation. Now if enhancement had been taken into account as an offset for the final determination of value, would that have to go back through litigation?

The court seemed to indicate so.

Mr. **Smith**. Could Mr. Louis Hubener answer that question?

Mr. **Chappell**. Sure.

Mr. **Hubener**. They were speaking with regard to fee simple acquisitions in that instance.

Mr. **Chappell**. That is right.

Mr. **Hubener**. And they said if the owner could show that there may have been inadequate compensation to begin with, that that possibility remained open.

Mr. **Chappell**. If I read the decision—I just want to clarify this for the record, Mr. Chairman—if I read the decision correctly, the court said where you have had a taking that has been validated by the court and title passed, and now you get down to the question of how much is paid and the Constitution requires just compensation in Florida—I believe it is just compensation.

Now if, as in some of the cases with which I am familiar along this very project, because I defended one of the property owners along the side and I lost that little battle. But anyway, there was enhancement considered in a number of cases I was involved in, where the enhancement was an offset, offset to the value—total value determined. In those cases, it was clearly one of litigation, is it not? I think the court said that.

Mr. **Hubener**. Yeah, they are talking about enhancement as an offset to severance damages and the owner would have had to have proved severance damaged to begin with.

Mr. **Chappell**. That is right. So if it is there and enhancement was an offset, they have got to be paid additional money is what I am saying, that would be in litigation.

Mr. **Hubener**. If he could show that he was not adequately paid to begin with, but that has nothing to do with the title interest that underlies it.

Mr. **Chappell**. You understand that I am just talking about litigation.

Thank you, Mr. Chairman.

Mr. **Roe**. Do I understand you to say that the general said that 97 percent of the land that was acquired was in fee simple and full value.

Mr. **Hubener**. Yes, sir.

Mr. **Roe**. So actually, that which may be in question on a reverter is still a very limited amount of properties involved?

Mr. **Hubener**. Very small, yes, sir.

Mr. **Roe**. Very small. And in effect are we not saying that if for whatever the reason may be and the fact of law, that the person was not compensated fairly. I am not suggesting some of them did not compensate them fairly, that person ought to be made whole without trying the case at this point.

Mr. **Hubener**. Yes, sir.

Mr. Roe. So that is the exposure that would be involved there. Is there any work that has been done to ascertain what that exposure may be, cost-wise, by any chance?

Mr. Smith. No, sir, that—I really think that is too speculative.

Mr. Roe. All right, I just wanted to know that.

Mr. Chappell. Mr. Chairman, one quick question. On the part of Lake Oklawaha that is in Putnam County, my information from the corps, I believe it was from the corps, that over half of that lake, some 6,000 or 7,000 acres, was taken purely under easement. I think that is accurate—do you know whether that is true or not?

Mr. Smith. Yes, sir, I am told that is correct.

Mr. Chappell. That is about 6,000 or 7,000 acres under Lake Oklawaha.

Mr. Smith. But paid for—under an easement, but paid for.

Mr. Stangeland. For clarity—if the gentleman will yield.

Mr. Roe. The gentleman from Minnesota.

Mr. Stangeland. For clarity to the chairman's question, which I think he phrased erroneously——

Mr. Roe. Thank you.

Mr. Stangeland [continuing]. He phrased 97 percent of the land taken in fee simple. Ninety-seven percent of the property has had full payment in fee simple or in easement.

Mr. Smith. That is right, 97 percent has either been paid for in fee simple or the easement was paid for in fee simple value.

Mr. Shaw. Yeah, that is the point I think we are trying to clear up.

Mr. Smith. That is the key.

Mr. Stangeland. Now my question further then is why, if it was paid for in full, was not all the land transferred fee simple?

Mr. Smith. Because the court in a number of those cases would not allow it. He said that since an easement will satisfy the need, even though you are paying full value, it will be in an easement and not a fee simple.

Mr. Stangeland. Thank you.

Mr. Roe. One of the open issues goes as follows: The counties put up some $9 million, and the State of Florida puts up around $3 million in the moneys that were contributed for the land acquisition program. There was a provision, from what we understand in testimony this morning, that allocated an interest rate to go against that, as far as the counties were concerned and that figure now has built up to $34 million if the counties are made whole.

What I am simply trying to get at, in spite of the discussion from both of my distinguished colleagues is what do you believe is the total exposure. For example, suppose an agreement is reached between the Federal Government and the State government. And that point has been made rather clear all day today, nobody wants the land in any case to revert back and be lost, because otherwise the integrity of the whole system would be jeopardized. Having nothing to do with the canal in this instance, just the fact that this vast swath of land lies across the northern part of the State of Florida affecting water supply and all the other issues that we talked about today makes it important.

Now having said that you agreed, or at least I understood you to, that as long as the property is held in public ownership, Federal use or State, or in a combination of both—what would be the further exposure to extinguish any other property rights? That is the point I am trying to get at.

Mr. **Hubener**. Beyond what the State is committed to paying back?

Mr. **Roe**. We do not get involved with what they are committed to paying back. I am just trying to find out in what shape the title is in. What exposure do we have. For example, let us assume for the sake of discussion, that the Federal Government decided that in order to clarify this situation, we will acquire the land and we will work with the State of Florida to make some just and fair compensation back to the counties. That to me is x plus y dollars. OK? Which seems to be logical in part, if it should go in that direction.

The question I am asking then, are there any further exposures to those titles, are we subject to an additional amount of lawsuits and so forth and so on?

Mr. **Hubener**. No, I do not think so. I think that the Florida courts have already ruled that that which is held in fee simple title remains in the State.

Mr. **Roe**. Including the easements?

Mr. **Hubener**. No, the fee simple title remains in the State. There has been no definitive ruling on the easements which have been and remain in public use. Our position, as stated by Attorney General Smith, is that if the law continues public use, then the easements continue, so there would be no further——

Mr. **Roe**. You do not feel there would be any further exposure behind that?

Mr. **Hubener**. No.

Mr. **Roe**. That is the point I wanted to make. All right, I have no further questions. Does anybody have any further questions of the attorney general?

[No response.]

Mr. **Roe**. I want to thank you and your colleagues very much for coming.

[The prepared statement of Hon. Jim Smith follows:]

FORMAL STATEMENT
OF
ATTORNEY GENERAL JIM SMITH

PALATKA, FLORIDA
JUNE 10, 1985
WATER RESOURCES SUBCOMMITTEE
PUBLIC WORKS COMMITTEE
UNITED STATES HOUSE OF REPRESENTATIVES

This statement is to address the possibility that the public would lose certain easement interests held for the Cross Florida Barge Canal upon deauthorization of the canal project.

The current deauthorization legislation pending, S.B. 792 and H.B. 1813, provides that the facilities of the canal will continue to be operated and that Lake Oklawaha will continue in existence as a Federal Recreation area.[1] (Complete copies are attached as Exhibits 1 & 2.)

Of the land held for Lake Oklawaha, a large amount (over 7300 acres) is held by perpetual easements, acquired in condemnation. The terms of the easements are set out in Exhibit 5.

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[1] Please note that those parts of the bills requiring certain Florida legislation to be in place have already been complied with. See Florida Statutes attached as Exhibits 3 & 4.

Exhibit 6 is a list of all easements held by the Canal Authority. Exhibit 6A is a map showing the location of these easements.

In Lake Oklawaha, 98.5% of the land held by easement was condemned and full fee value was paid. In the project as a whole, 97% of the easement acreage acquired was for full fee value.

It is important to note that easement interests in Lake Oklawaha have been used for the canal project (see parcel #'s 1 through 12 on Exhibit 6) as have those in the west end of the project (parcel #'s 16 through 19).

In the 1970's, litigation was instigated by certain landowners who wanted the return of their lands which had been taken for the canal. In most of these cases, the Canal Authority had taken fee title. However, some were claims that easement interests taken had expired due to the abandonment of the canal project.

Although the canal had not been deauthorized, the trial court did find the project abandoned. It found the easements had expired, and the fee titles were ordered returned.

The case appeared on appeal as Canal Authority v. Mainer, 440 So.2d 1304 (Fla. 5th DCA 1983), attached as Exhibit 7.

The opinion reversed the trial court's decision to require fee title to be returned to the previous owners. The Florida Supreme Court has recently agreed in the case, called in that court Mainer v. Canal Authority, Case Nos. 64, 689 through 64,697, April 8, 1985, that fee title is retained by the governmental owner even if the purpose for the taking was abandoned. See attached Exhibit 8.

The Supreme Court did not discuss the easement issue, on which the district court had said,

> "We reach a different result regarding the easements, however. The easements, by the very language of their creation, made their existence limited or conditioned upon use by the Canal Authority for the canal project, now abandoned. The document that conveys an easement to the Canal Authority from Hasty-Greene declares: "TO HAVE AND TO HOLD said rights and easement unto the Grantee and its assigns forever, or until such time as said property should no longer be required for the purposes of The Cross Florida Barge Canal project. . . ." (Emphasis supplied). The circuit court order of taking that grants a perpetual easement to the Canal Authority from Ocala Manufacturing states that the easement is "for the purpose of constructing, operating, repairing, or improving the Cross Florida Barge Canal. . . ."
>
> "Where a condemning authority only has an easement, and its right to use the property has been lost or the public use has ended, the easement is extinguished, and all of its rights revert to the owner of the fee. The owners of the servient tenements in these cases now hold their lands free

> from the public easements. No quitclaim deeds or payments to the Canal Authority are required." (Emphasis added).

It is important to note that the easement interests taken had never been used. Consequently, the public use of the lands taken could not end, because it had never begun. It is my view that this opinion recognizes the general principle that an easement interest can be acquired for one purpose, used for that purpose, and subsequently used for another purpose without the easement interest reverting to the owner of the underlying fee.

This view is held by the editors of Nichols on Eminent Domain, the leading treatise on the subject. In Section 9.35 of that reference, it is stated,

> **9.35 Change of Use**
> . . . It sometimes becomes expedient to abandon the original use and to substitute a different one. Such change may be effected if the proposed use is similar in character to that of the existing use.
>
> . . . The owner of the fee, who has received compensation for a perpetual easement in the land, is in no position to require that the public use continue precisely the same, or that it be operated by the same public agent. If the new use is no more onerous than the old, and is substituted for it by the same act which discontinues the old, he is not entitled to any compensation for a change which did not in fact cause damage. If it is more onerous, he is entitled to recover compensation for the increase in the burden only. In both instances, however, the two uses must be of the same general nature. . . .

> To establish the immunity from liability the new use must be imposed by the same act which discontinues the old; for, if the public easement is discontinued or abandoned, the land reverts to the owner of the fee free of the easement, and a new public use cannot be subsequently imposed upon it without paying the owner full compensation. The imposition of a new easement of a different nature from the old one, and wholly inconsistent with it, amounts to an abandonment of the old easement, and the owner of the fee is entitled to compensation as if his land was unencumbered, and the same rule applies when the new use is a private one. (The full section is attached as Exhibit 9.)

It is vital that the same legislation which deauthorizes the canal also provides for the new use of the interests held. The current bills do.

Another barrier to expiration of the easement interests is Florida statutory law. Upon deauthorization, Section 374.001(2), Florida Statutes, comes into effect and provides that less-than-fee interests do not revert. See Exhibit 4. Section 253.7829, Florida Statutes, provides for a management plan to be prepared. See Exhibit 3.

Certain easements, which have never been used for the canal project, may expire and revert after all the legal procedings surrounding deauthorization have occurred. The easements under and around Lake Oklawaha and the west end of the canal have been used and I feel they will not expire.

If, however, a court holds that they have expired, they could be reacquired by condemnation at their current values, and not at the higher values to be expected in the future.

The Mainer cases show that continued inaction can result in a determination that the canal is abandoned in spite of the facts, and without the legal and orderly procedures in place that are necessary if the project is actually being abandoned.

II

99TH CONGRESS
1ST SESSION

S. 792

To deauthorize the Cross-Florida Barge Canal, and for other purposes.

IN THE SENATE OF THE UNITED STATES

MARCH 28 (legislative day, FEBRUARY 18), 1985

Mr. CHILES introduced the following bill; which was read twice and referred to the Committee on Environment and Public Works

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A BILL

To deauthorize the Cross-Florida Barge Canal, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a)(1) the high-level lock barge canal from the St. Johns River across Florida to the Gulf of Mexico, authorized by the Act of July 23, 1942 (56 Stat. 703), is not authorized after the date this Act becomes effective.

(2) Subject to the provisions of subsections (b) and (c), the Secretary is authorized to operate and maintain the existing facilities (and lands appurtenant thereto) of the Cross-Florida Barge Canal project referred to in paragraph (1) of this subsection in such manner as the Secretary determines

Exhibit 1

to be necessary unless and until a law of the United States enacted after the date of enactment of this Act provides for further disposition of the project, its facilities, and lands and interests in lands owned by the United States.

(b)(1) The Secretary shall operate the Rodman Dam, authorized by the Act of July 23, 1942 (56 Stat. 703), in a manner which will assure the continuation of the reservoir known as Lake Ocklawaha. The Secretary shall not operate the Eureka Lock and Dam in a manner which would create a reservoir on lands not flooded on January 1, 1984.

(2) The Secretary is authorized to acquire, by purchase or exchange with donated or appropriated funds, such lands and interests in lands acquired by the State of Florida for the Cross-Florida Barge Canal project as may be necessary to comply with the provisions of paragraph (1) of this subsection. For acquisition of such lands or interests in lands, the Secretary—

(A) shall pay the owner of any such lands or interests in lands an amount, or

(B) in the case of an exchange, give such owner lands or interests in lands with a fair market value,

which is not less than the fair market value of the lands or interests in lands to be acquired.

(c)(1) The Lake Ocklawaha Federal Recreation District is hereby established and shall be administered by the Secretary. Such District shall include the Rodman Dam, authorized by the Act of July 23, 1942 (56 Stat. 703), the reservoir which is created by the dam pursuant to the easements granted and transferred to the United States by the State of Florida pursuant to this Act, and any lands and interests in lands acquired by the Secretary under subsection (b)(2). The Secretary is directed to operate the Rodman Dam, and manage the recreation district, in a manner consistent with maintaining the recreational values of the reservoir and consistent with applicable water management policies of the State of Florida. In operating the Rodman Dam, the Secretary shall consult the St. Johns River Water Management District Board.

(2) The Secretary is directed to request the transfer of all easements held by the State of Florida on lands associated with the Cross-Florida Barge Canal project referred to in subsection (a) from the Eureka Lock and Dam to the St. Johns River.

(3) The Secretary shall receive and administer each easement granted or transferred to the United States pursuant to this Act to further the purposes of the District established by paragraph (1) of this subsection.

(d) Subsections (a) and (b) shall not become effective until—

(1) the State of Florida enacts a law which assures that, upon deauthorization of the Cross-Florida Barge Canal project referred to in subsection (a), all valid public uses of the lands and interests in lands acquired by the State of Florida for such project will be protected by providing that, before the State transfers any such lands or interests in lands to any other person (except the Federal Government), the county in which such lands are located shall have the first right to purchase, at fair market value, such lands or interests in lands;

(2) the State of Florida enacts a law which assures that, upon deauthorization of such project, the State of Florida will never transfer to any person (except the Federal Government) any lands owned by the State and contained within the expanded boundary of the Ocala National Forest as proposed and shown on the map dated July 1978, on file with the Chief of the Forest Service, Department of Agriculture, Washington, District of Columbia; and

(3) the State of Florida enacts a law which assures that, upon deauthorization of such project, that the State will grant to the United States a perpetual easement to flood that portion of the lands referred to

in paragraph (2) of this subsection from the Eureka Lock and Dam to the St. Johns River.

(e) There are authorized to be appropriated for fiscal years beginning after September 30, 1985, such sums as may be necessary to carry out the provisions of this Act.

[illegible]

99TH CONGRESS
1ST SESSION

H. R. 1813

To deauthorize the Cross-Florida Barge Canal, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

MARCH 28, 1985

Mr. MACKAY (for himself, Mr. SHAW, Mr. MACK, Mr. MCCOLLUM, Mr. NELSON of Florida, and Mr. YOUNG of Florida) introduced the following bill; which was referred to the Committee on Public Works and Transportation

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A BILL

To deauthorize the Cross-Florida Barge Canal, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a)(1) the high-level lock barge canal from the St. Johns River across Florida to the Gulf of Mexico, authorized by the Act of July 23, 1942 (56 Stat. 703), is not authorized after the date this subsection becomes effective.

(2) Subject to the provisions of subsections (b) and (c), the Secretary of the Army, acting through the Chief of Engineers (hereinafter in this Act referred to as the "Secretary") is authorized to operate and maintain the existing facilities

Exhibit 2

(and lands appurtenant thereto) of the Cross-Florida Barge Canal project referred to in paragraph (1) of this subsection in such manner as the Secretary determines to be necessary unless and until a law of the United States enacted after the date of enactment of this Act provides for further disposition of the project, its facilities, and lands and interests in lands owned by the United States.

(b)(1) The Secretary shall operate the Rodman Dam, authorized by the Act of July 23, 1942 (56 Stat. 703), in a manner which will assure the continuation of the reservoir known as Lake Ocklawaha. The Secretary shall not operate the Eureka Lock and Dam in a manner which would create a reservoir on lands not flooded on January 1, 1984.

(2) The Secretary is authorized to acquire, by purchase or exchange with donated or appropriated funds, such lands and interests in lands acquired by the State of Florida for the Cross-Florida Barge Canal project as may be necessary to comply with the provisions of paragraph (1) of this subsection. For acquisition of such lands or interests in lands, the Secretary—

(A) shall pay the owner of any such lands or interests in lands an amount, or

(B) in the case of an exchange, give such owner lands or interests in lands with a fair market value, which is not less than the fair market value of the lands or interests in lands to be acquired.

(c)(1) The Lake Ocklawaha Federal Recreation District is hereby established and shall be administered by the Secretary. Such District shall include the Rodman Dam, authorized by the Act of July 23, 1942 (56 Stat. 703), the reservoir which is created by the dam pursuant to the easements granted and transferred to the United States by the State of Florida pursuant to this Act, and any lands and interests in lands acquired by the Secretary under subsection (b)(2). The Secretary is directed to operate the Rodman Dam, and manage the recreation district, in a manner consistent with maintaining the recreational values of the reservoir and consistent with applicable water management policies of the State of Florida. In operating the Rodman Dam, the Secretary shall consult the St. Johns River Water Management District Board.

(2) The Secretary is directed to request the transfer of all easements held by the State of Florida on lands associated with the Cross-Florida Barge Canal project referred to in subsection (a) from the Eureka Lock and Dam to the St. Johns River.

(3) The Secretary shall receive and administer each easement granted or transferred to the United States pursu-

ant to this Act to further the purposes of the District established by paragraph (1) of this subsection.

(d) Subsections (a) and (b) shall not become effective until—

(1) the State of Florida enacts a law which assures that, upon deauthorization of the Cross-Florida Barge Canal project referred to in subsection (a), all valid public uses of the lands and interests in lands acquired by the State of Florida for such project will be protected by providing that, before the State transfers any such lands or interests in lands to any other person (except the Federal Government), the county in which such lands are located shall have the first right to purchase, at fair market value, such lands or interests in lands;

(2) the State of Florida enacts a law which assures that, upon deauthorization of such project, the State of Florida will never transfer to any person (except the Federal Government) any lands owned by the State and contained within the expanded boundary of the Ocala National Forest as proposed and shown on the map dated July 1978, on file with the Chief of the Forest Service, Department of Agriculture, Washington, District of Columbia; and

(3) the State of Florida enacts a law which assures that, upon deauthorization of such project, that the State will grant to the United States a perpetual easement to flood that portion of the lands referred to in paragraph (2) of this subsection from the Eureka Lock and Dam to the St. Johns River.

(e) There are authorized to be appropriated for fiscal years beginning after September 30, 1985, such sums as may be necessary to carry out the provisions of this Act.

253.76 Appeals; proceedings.—[Repealed by s. 15, ch. 84-79.]

253.77 State lands; state agency authorization for use prohibited without consent of agency in which title vested.—

(1) No person may commence any excavation, construction, or other activity involving the use of sovereign or other lands of the state, the title to which is vested in the Board of Trustees of the Internal Improvement Trust Fund or the Department of Natural Resources under this chapter, until such person has received from the Board of Trustees of the Internal Improvement Trust Fund the required lease, license, easement, or other form of consent authorizing the proposed use.

(2) The permitting agency shall, within 30 days after receipt of a permit application, notify the applicant and the executive director of the Department of Natural Resources or his designee that a lease, license, easement, or other form of consent of the Board of Trustees of the Internal Improvement Trust Fund authorizing the proposed use may be required. However, this subsection does not apply to any permit, license, or other form of consent to take the regulated action which was issued and outstanding on July 1, 1980.

(3) This act does not apply to any permit, license, or other form of consent to take the regulated action which was issued and outstanding on June 23, 1976.

History.—ss. 1, 2, ch. 76-243; s. 11, ch. 80-[illegible]; s. 13, ch. 84-79.

[1]253.781 Retention of state-owned lands in the Oklawaha River and Valley; transfer to the Federal Government for inclusion in Ocala National Forest.—

(1) It is the intent of the Legislature to conserve and protect the natural resources and scenic beauty of the Oklawaha River and Valley bounding the Ocala National Forest in Putnam and Marion Counties. It is the finding of the Legislature that said Oklawaha River and Valley bounding the Ocala National Forest are areas containing and having a significant impact upon environmental and recreational resources of statewide importance and that public ownership of and access to such areas are necessary and desirable to protect the health, welfare, safety, and quality of life of the residents of this state and to implement s. 7, Art. II of the State Constitution. It is further the finding of the Legislature that retention of ownership and control of the lands by the state or their ownership and control by the Federal Government as part of the Ocala National Forest will properly protect and conserve the natural resources and scenic beauty of Florida, enhance recreational opportunities, and be in the public interest.

(2) The Department of Natural Resources is authorized and directed to transfer ownership of all lands or interests in lands previously owned by the canal authority contained within the existing boundary of the Ocala National Forest and any extension of the boundary of the Ocala National Forest in Putnam County to the United States Department of Agriculture for the purpose of inclusion in the Ocala National Forest. The Department of Natural Resources shall make such conveyance for payment of no less than the fair market value for such lands as authorized by the head of the Department of Natural Resources.

(3) The Department of Natural Resources is directed to grant to the Federal Government a perpetual easement for flooding in all lands which are associated with the Cross Florida Barge Canal Project from the Eureka Lock and Dam site to the St. Johns River and to which the department has retained or acquired fee title. The department is further directed to assign to the Federal Government any and all easements for flooding which the state may hold or acquire on lands associated with the Cross Florida Barge Canal Project from the Eureka Lock and Dam site to the St. Johns River.

(4) The Governor and Cabinet as the head of the Department of Natural Resources are empowered and authorized to acquire by purchase, exchange of other state lands, or the exercise of the power of eminent domain the fee title to lands acquired in less-than-fee title along the canal route within the area described in subsection (2). The Legislature finds that such exercise of the power of eminent domain to accomplish the purposes of this section is necessary and for a public purpose. Such power of eminent domain shall be exercised pursuant to the provisions of chapter 73.

(5) Lands transferred pursuant to this section by the Department of Natural Resources may reserve existing road rights-of-way.

History.—s. 2, ch. 79-167; ss. 1, 3, ch. 84-267.

[1]**Note.**—Effective only upon deauthorization of the Cross Florida Barge Canal Project by the United States Congress, on the effective date of such deauthorization by the United States Congress.

[1]253.782 Retention of state-owned lands in and around Lake Rousseau and the Cross Florida Barge Canal right-of-way from Lake Rousseau west to the Withlacoochee River.—

(1) It is the intent of the Legislature to conserve, protect, and maintain the natural resources, recreational values, and water management capabilities of Lake Rousseau and the Withlacoochee River. It is the finding of the Legislature that said lands and waters are areas containing and having a significant impact on environmental and recreational resources of statewide importance and that public ownership of and access to such areas are necessary and desirable to protect the health, welfare, safety, and quality of life of the residents of this state and to implement s. 7, Art. II of the State Constitution. It is further the finding of the Legislature that retention of ownership and control of said lands by the state will properly protect and conserve the natural resources of Florida, enhance recreational opportunities, and be in the public interest.

(2) The Department of Natural Resources is authorized and directed to retain ownership of and maintain all lands or interests in land owned by the Board of Trustees of the Internal Improvement Trust Fund including all fee and less-than-fee interests in lands previously owned by the canal authority in Lake Rousseau and the Cross Florida Barge Canal right-of-way from Lake Rousseau at U.S. Highway 41 west to and including the Withlacoochee River.

(3) The Governor and Cabinet as head of the Department of Natural Resources are empowered, authorized, and directed to acquire by purchase, exchange of other state lands, or the exercise of the

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power of eminent domain the fee title to any less-than-fee title interest in land owned by the Board of Trustees of the Internal Improvement Trust Fund, including interests previously owned by the canal authority, as described in subsection (2). The Legislature finds that such exercise of the power of eminent domain to accomplish the purposes of this section is necessary and for a public purpose. Such power of eminent domain shall be exercised pursuant to the provisions of chapter 73.

(4) The Department of Natural Resources shall recommend to the Governor and Cabinet the establishment of an interagency advisory committee to report to the department regarding restoration and management of the Withlacoochee River, with special emphasis on control of saltwater intrusion.

History.—s. 3, ch. 79-167; s. 1, ch. 84-287.

[1] Note.—Effective only upon deauthorization of the Cross Florida Barge Canal Project by the United States Congress, on the effective date of such deauthorization by the United States Congress.

253.7829 Management plan for retention or disposition of Cross Florida Barge Canal lands; authority to manage lands until disposition and to dispose of surplus lands.—It is declared to be in the public interest that the Department of Natural Resources shall do and is hereby authorized to do any and all things and incur and pay from the Cross Florida Barge Canal Trust Fund, for the public purposes described herein, any and all expenses necessary, convenient, and proper to:

(1) Develop a management plan for the retention or disposition of lands acquired for the Cross Florida Barge Canal to be submitted to the Legislature no later than 1 year from the deauthorization of the Cross Florida Barge Canal, which plan shall reflect a consideration of alternatives for disposition of all lands in fee or less than fee owned by the Board of Trustees of the Internal Improvement Trust Fund, including those lands previously owned by the canal authority and the United States Army Corps of Engineers, from the North/South midsection line of sections 20 and 29, township 15 south, range 23 east, west to U.S. Highway 41, and the Cross Florida Barge Canal right-of-way from the Withlacoochee River west to the Gulf of Mexico. Such alternatives for disposition will include possible retention by any interested state agency for specific public purposes and a declaration of lands not to be retained as surplus lands to be disposed of pursuant to subsection [1](3) of this section and s. 253.783(2)(c)-(f). The management plan shall also address any remedial measures necessary to correct any environmental or economic damage caused by works constructed as a part of or as a result of the uncompleted sections of the Cross Florida Barge Canal.

(2) Operate and maintain existing lands and interests in lands, appurtenances, structures, and facilities until further disposition is directed by the Legislature pursuant to the management plan.

(3) Offer any land declared to be surplus, at current appraised value, to the counties in which the surplus land lies, for acquisition for specific public purposes. Any such sale price at current appraised value shall be charged against the dollar figure, including interest, of the repayment to be made to that county. These offers will be valid for 6 calendar months from the date the management plan is adopted by the Legislature.

History.—s. 6, ch. 84-287.

[1] Note.—Reference to "subsection (3)" was substituted by the editors for a reference to "subsection (4)" to correct an apparent error in s. 6, ch. 84-287, Laws of Florida.

[1]253.783 Additional powers and duties of the Department of Natural Resources.—

(1) The Department of Natural Resources shall make no further expenditures for the purpose of acquiring land for constructing, operating, or promoting a canal across the peninsula of Florida connecting the waters of the Atlantic Ocean with the waters of the Gulf of Mexico via the St. Johns River.

(2) It is declared to be in the public interest that the department shall do and is hereby authorized to do any and all things and incur and pay from the Cross Florida Barge Canal Trust Fund, for the public purposes described herein, any and all expenses necessary, convenient, and proper to:

(a) Develop a management plan for the retention or disposition of lands acquired for the Cross Florida Barge Canal to be submitted to the Legislature no later than 1 year from the deauthorization of the Cross Florida Barge Canal, which plan shall reflect a consideration of alternatives for disposition of all lands in fee or less than fee owned by the Board of Trustees of the Internal Improvement Trust Fund, including those lands previously owned by the canal authority and the United States Army Corps of Engineers, from the North/South midsection line of sections 20 and 29, township 15 south, range 23 east, west to U.S. Highway 41, and the Cross Florida Barge Canal right-of-way from the Withlacoochee River west to the Gulf of Mexico. Such alternatives for disposition will include possible retention by any interested state agency for specific public purposes and a declaration of lands not to be retained as surplus lands to be disposed of pursuant to paragraphs (c)-(f). The management plan shall also address any remedial measures necessary to correct any environmental or economic damage caused by works constructed as a part of or as a result of the uncompleted sections of the Cross Florida Barge Canal.

(b) Operate and maintain existing lands and interests in lands, appurtenances, structures, and facilities until further disposition is directed by the Legislature pursuant to the management plan.

(c) Offer any land declared to be surplus, at current appraised value, to the counties in which the surplus land lies, for acquisition for specific public purposes. Any such sale price at current appraised value shall be charged against the dollar figure, including interest, of the repayment to be made to that county. These offers will be valid for 6 calendar months from the date the management plan is adopted by the Legislature.

(d) Extend the second right of refusal, at current appraised value, to the original owner from whom the Canal Authority of the State of Florida or the United States Army Corps of Engineers acquired the land or his heirs. The department shall offer and is authorized to reconvey, for no consideration, any donated land declared to be surplus and not sold pursuant to paragraph (c) to the original donor or his heirs. These offers shall be made by public advertisement in not fewer than three newspapers of general circulation within the area of the canal route, one of which shall be a newspaper in the county in which the lands declared to be surplus are located. These offers will be valid for 6 calendar months from the expiration date of the offers made under paragraph (c).

(e) Extend the third right of refusal, at current appraised value, to any person having a leasehold interest in the land from the canal authority. These offers shall be advertised as provided in paragraph (d) and will be valid for 6 calendar months from the expiration date of the offers made under paragraph (d).

(f) Offer surplus lands not purchased or transferred under paragraph (b) or paragraph (c) to the highest bidder at public sale. Such surplus lands and the public sale shall be described and advertised in a newspaper of general circulation within the county in which the lands are located not less than 14 calendar days prior to the date on which the public sale is to be held. The current appraised value of such surplus lands will be the minimum acceptable bid.

(g) Refund to the counties of the Cross Florida Canal Navigation District funds derived from the conveyance of lands of the project to the Federal Government or any agency thereof and from the sales of surplus lands pursuant to this section. Such refunds shall be in proportion to the ad valorem tax share paid to the Cross Florida Canal Navigation District by the respective counties. Refunds to the counties shall include interest on the amounts from the time of their payment by the counties to the date of repayment pursuant to this act. Interest to be refunded to the counties shall be compounded annually at the following rates: 1937-1950, 4 percent; 1951-1960, 5 percent; 1961-1970, 6 percent; 1971-1975, 7 percent; 1976-refund date, 8 percent. In computing interest, amounts already repaid to the counties will not be subject to further assessments of interest. Any partial repayments provided to the counties under this act shall be considered as contributing to the total repayment owed to the counties. Should the funds generated by conveyance to the Federal Government and sales of surplus lands be more than sufficient to repay such counties in accordance with this section, such excess funds shall be deposited in the Cross Florida Barge Canal Trust Fund. In no case shall general revenue funds be used to repay interest owed to the counties.

(h) Establish an advisory committee to report to the department regarding the development of the management plan. This committee shall be composed of one representative from each of the following: Department of Natural Resources, Department of Environmental Regulation, Game and Fresh Water Fish Commission, Department of Transportation, [2]Department of Administration-Division of State Planning, Southwest Florida Water Management District, St. Johns Water Management District, Duval County, Clay County, Putnam County, Marion County, Levy County, and Citrus County; and it shall also be composed of four members of the public at large appointed by the Governor and Cabinet. The department shall conduct public hearings to receive comments and recommendations as to the disposition of lands under the management plan.

(i) Carry out the purposes of this act.

(3) The department shall seek and utilize federal funds and enter into agreements with the Federal Government or any agency thereof to effectuate the purposes of this act.

History.—s. 4, ch. 79-167; ss. 2, 5, ch. 84-197.

[1]Note.—Effective only upon deauthorization of the Cross Florida Barge Canal Project by the United States Congress, on the effective date of such deauthorization by the United States Congress.

[2]Note.—See s. 2, ch. 79-190, which abolished the Division of State Planning and transferred the bulk of its powers, duties, and functions to the Executive Office of the Governor.

253.784 Contracts.—The Department of Natural Resources shall have the power and authority to enter into any and all contracts necessary or convenient to the exercise of any of the powers granted to the department by this act. The department is authorized to assign, transfer, and convey to the United States, or to any appropriate agency thereof, such assets, franchises, and property, or interests therein, of the department, including lands, easements, and rights-of-way acquired by the state, and to accept moneys for the same as may be necessary or convenient to the exercise of such powers consistent with this act. The department is authorized to receive by dedication, grant, or transfer any fee or less-than-fee lands owned by the United States Army Corps of Engineers. The department is authorized to enter into agreements with the Federal Government for restoration of areas or receipt of funds for restoration of areas in and around Lake Rousseau, the Cross Florida Barge Canal right-of-way from Lake Rousseau to the Withlacoochee River, the Withlacoochee River, and the Cross Florida Barge Canal right-of-way from the eastern boundary of the expanded Ocala National Forest to the St. Johns River.

History.—s. 8, ch. 79-167; s. 5, ch. 84-197.

[1]**253.785 Liberal construction of act.**—It is intended that the provisions of this act shall be liberally construed for accomplishing the work authorized and provided for or intended to be provided for by this act, and when strict construction would result in the defeat of the accomplishment of any part of the work authorized by this act, and a liberal construction would permit or assist in the accomplishment thereof, the liberal construction shall be chosen.

History.—s. 10, ch. 79-167; s. 5, ch. 84-197.

[1]Note.—Effective only upon deauthorization of the Cross Florida Barge Canal Project by the United States Congress, on the effective date of such deauthorization by the United States Congress.

253.80 Murphy Act lands; costs and attorney fees for quieting title.—[Transferred from s. 197.361 by s. 1, ch. 84-197.]

253.81 Murphy Act; tax certificates barred.—[Transferred from s. 197.366 by s. 1, ch. 84-197.]

253.82 Title of state or private owners to Murphy Act lands.—

(1)(a) The interest of the state in any land which was acquired by the state under chapter 18296, Laws of Florida, 1937, but which is listed on a county tax assessment roll as being owned by a person other than the state and on which ad valorem taxes have been paid at least since January 1, 1964, or on which ad valorem taxes have been paid for at least 20 years preceding the year in which title is being claimed by such person or his predecessors in title is hereby released to such person. The rights that are released bined general circulation in the counties having land in the district.

(4) The hearing to finally adopt a budget and millage rate shall be by and before the governing board of the district as provided in s. 200.065 and may be continued from day to day until terminated by the board. The final budget for the district will thereupon be the operating and fiscal guide for the district for the ensuing year; however, transfers of funds may be made within the budget by action of the governing board at a public meeting of the governing board. Should the district receive unanticipated funds after the adoption of the final budget, the final budget may be amended by including such funds, so long as notice of intention to amend is published one time in one or more newspapers qualified to accept legal advertisements having a combined general circulation in the counties in the district. The notice shall set forth the proposed amendment and shall be published at least 10 days prior to the public meeting of the board at which the proposed amendment is to be considered. However, in the event of a disaster or of an emergency arising to prevent or avert the same, the governing board shall not be limited by the budget but shall have authority to apply such funds as may be available therefor or as may be procured for such purpose.

History.—s. 28, ch. 25209, 1949; s. 3, ch. 29790, 1955; s. 4, ch. 61-487; s. 1, ch. 65-432; s. 1, ch. 67-74; s. 28, ch. 73-190; s. 12, ch. 74-234; s. 46, ch. 80-274; s. 220, ch. 81-259; s. 3, ch. 84-164.

[1]Note.—Section 4, ch. 84-164, provides that ch. 84-164 "shall apply to assessment rolls and taxes levied thereon for 1984 and each year thereafter."

Note.—Former s. 378.12.

CHAPTER 374

CANAL AUTHORITY; NAVIGATION DISTRICTS; WATERWAYS DEVELOPMENT

PART I CANAL AUTHORITY

PART II NAVIGATION DISTRICTS

PART I

CANAL AUTHORITY

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[1]374.001 Transfer of canal authority to the Department of Natural Resources.—

(1) The Canal Authority of the State of Florida is transferred by a type three transfer, as defined in s. 20.06(3), to the Department of Natural Resources and assigned to the Division of Resource Management. All funds of the canal authority shall be transferred to and maintained in a trust fund account designated as the Cross Florida Barge Canal Trust Fund administered by the Department of Natural Resources.

(2) Fee title, easements, and other interests in all lands held by the canal authority shall be transferred to the Department of Natural Resources and shall vest in the Board of Trustees of the Internal Improvement Trust Fund. Such title, easements, and other interests in land shall be maintained in the board of trustees pending legislative direction as to disposition pursuant to s. 253.783(2)(a) and shall not revert. The trustees shall utilize such lands or interests in lands pending such disposition for recreation or water management, or other purposes authorized to be performed by water management districts pursuant to s. 373.139, which uses the Legislature finds to be necessary and for a public purpose. Such lands shall be exempt from taxation.

(3) This act shall not be construed to abrogate or impair any contractual agreement entered into by the canal authority or the Board of Commissioners of the Cross Florida Canal Navigation District.

History.—ss. 1, 3, 11, ch. 79-167; ss. 2, 3, ch. 84-287.

[1]Note.—Effective only upon deauthorization of the Cross Florida Barge Canal Project by the United States Congress, on the effective date of such deauthorization by the United States Congress.

374.002 Management plans for retention or disposition of certain Cross Florida Barge Canal lands and for Rodman Dam and Reservoir.—The canal authority is authorized to enter into a contract with the Department of Natural Resources for the development of the management plans required by s. 253.783(2)(a) and (b).

History.—s. 15, ch. 79-167; s. 5, ch. 84-287.

[1]374.011 Canal authority, creation; short title.—There is hereby created a body corporate, with the name "The Canal Authority of the State of Florida," (herein called the corporation), which shall operate under the supervision of the Department of Natural Resources. The principal office and necessary branch offices of the corporation shall be established at such places and under such rules and regulations as the board of directors may prescribe. This act may be cited as the "Canal Authority Act."

History.—s. 1, ch. 18178, 1933; s. 1, ch. 61-244; ss. 25, 35, ch. 69-106; s. 12, ch. 79-167; s. 5, ch. 84-287.

[1]Note.—Repealed by s. 12, ch. 79-167, effective upon the effective date of deauthorization of the Cross Florida Barge Canal Project by the U.S. Congress, except for the possible effect of laws affecting this section prior to that date.

[1]374.021 Capital.—The capital of said corporation shall consist of the rights, privileges and franchises herein and hereby granted to said corporation.

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which rights, privileges and franchises are hereby determined to be of the value of $20 million.

History.—s. 2, ch. 16178, 1933; s. 12, ch. 79-167; s. 5, ch. 84-287.

¹Note.—Repealed by s. 12, ch. 79-167, effective upon the effective date of deauthorization of the Cross Florida Barge Canal Project by the U.S. Congress, except for the possible effect of laws affecting this section prior to that date.

¹374.031 Board of directors.—The management of the corporation shall be vested in a board of directors consisting of the Governor and Cabinet. The Executive Director of the Department of Natural Resources shall serve as the Executive Director to the Governor and Cabinet.

History.—s. 3, ch. 16178, 1933; s. 4, ch. 75-22; s. 12, ch. 79-167; ss. 1, 2, ch. 81-302; s. 1, ch. 82-46; s. 2, ch. 83-334; s. 5, ch. 84-287.

¹Note.—Repealed by s. 12, ch. 79-167, effective upon the effective date of deauthorization of the Cross Florida Barge Canal Project by the U.S. Congress, except for the possible effect of laws affecting this section prior to that date. Repealed effective October 1, 1989, by s. 1, ch. 82-46, as amended by s. 2, ch. 83-334, and scheduled for review pursuant to s. 11.611 in advance of that date.

¹374.041 General powers.—The corporation shall have perpetual existence. It shall have the power to adopt, alter and use a corporate seal; to make contracts; to lease, buy, acquire, hold and dispose of real and personal property of every kind and nature; to sue and be sued; to select, employ and dismiss at pleasure such officers, employees, attorneys, consultants and agents as shall be necessary or expedient for the transaction of the business of the corporation, to define their authority and duties, and in the discretion of the board of directors to require bonds of them and to fix the penalties thereof; to fix the compensation of all officers, employees, attorneys, consultants and agents of the corporation; to prescribe, amend and repeal, by its board of directors, bylaws, rules and regulations governing the manner in which its business may be conducted and in which the powers granted to it by law may be enjoyed, including the selection of a chairman and provision for such committees and the functions thereof as the board of directors may deem necessary for facilitating the business of the corporation. The board of directors shall determine and prescribe the manner in which the corporation's obligations shall be incurred and its expenses allowed and paid. The corporation, by and with the consent of any board, commission or department of the state, including any field service thereof, may avail itself of the use of information, facilities, officers and employees thereof in carrying out the provisions of this act.

History.—s. 4, ch. 16178, 1933; s. 12, ch. 79-167; s. 5, ch. 84-287.

¹Note.—Repealed by s. 12, ch. 79-167, effective upon the effective date of deauthorization of the Cross Florida Barge Canal Project by the U.S. Congress, except for the possible effect of laws affecting this section prior to that date.

¹374.051 Special powers.—

(1) The corporation is hereby granted the right, privilege, franchise, power and authority:

(a) To acquire, own, construct, operate and maintain a canal across the peninsula of Florida, connecting the waters of the Atlantic Ocean with the waters of the Gulf of Mexico, together with sea and river approaches thereto, and such lateral and connecting branches as may be necessary or desirable; including a branch to link the St. Johns River with the Atlantic Intracoastal Waterway, and a branch to link the western reaches of such canal with the eastern terminus of the inland portion of the Gulf Intracoastal Waterway and the northern terminus of the inland portion of the Gulf Intracoastal Waterway, such canal shall be constructed along such route, and to be of such size, dimensions, specifications, kind or type as may be approved by the Department of the Army or other appropriate department or agency of the United States.

(b) To construct and build the necessary cuts, embankments, basins, reservoirs, locks, including such locks to connect Canaveral Harbor with the revetments, levees and Atlantic Intracoastal Waterway and other appurtenances thereto.

(c) To construct said canal across, along or upon any stream, waterway, highway, (including state highways), railroad or canal, whenever and wherever the route selected for said canal as aforesaid, shall intersect or touch such stream, waterway, highway, railroad or canal.

(d) To repair, construct and reconstruct telephone, telegraph and power transmission lines, water, gas and pipelines, highway and railroad bridges or tunnels, over, across or under said canal, whenever such repair, construction or reconstruction is necessitated by the construction, maintenance or operation of said canal.

(e) To dredge in or about said canal and waterways and to deepen and widen any existing waterways directly connected with said canal.

(f) To contract for, to acquire by lease, purchase, or otherwise and to operate, repair, and maintain, ships, tugs, lighters, scows, vessels, railroads, dredges, bridges, engines, rolling stock, electric powerhouses and powerlines, stores, warehouses, wharves, piers, basins, elevators, buildings and machinery, supplies, equipment, appliances and services of every kind and description that may be necessary, useful or convenient in the construction or operation of said canal.

(g) To exact and collect tolls and to prescribe rules for the privilege of passing through or along said canal or any portion thereof.

(h) To do any and all things necessary and incur and pay any and all expenditures necessary, convenient or proper in the acquisition, construction, operation and control of said canal and its related locks, improvement and appurtenances.

(2) The corporation is likewise authorized to acquire, own, construct, operate and maintain such other waterways project or projects within the state as may be necessary or desirable, including, but not limited to, projects for flood control and water management purposes.

History.—s. 5, ch. 16178, 1933; s. 1, ch. 61-264; s. 12, ch. 79-167; s. 5, ch. 84-287.

¹Note.—Repealed by s. 12, ch. 79-167, effective upon the effective date of deauthorization of the Cross Florida Barge Canal Project by the U.S. Congress, except for the possible effect of laws affecting this section prior to that date.

¹374.061 Obligations of indebtedness.—Said corporation is hereby authorized and empowered to borrow, from time to time, money for the construction and operation of said canal and canal system, in such amounts and on such terms, as the board of directors may deem advisable, and for that purpose it may issue bonds or obligations of indebtedness in its own name, in such denominations, and at such rates of interest, and with such maturities, as its board of directors may determine, and in order to secure the payment thereof, said corporation is authorized and empowered to mortgage or pledge said canal and canal system, and the tolls, income and revenues to be derived therefrom. The corporation is further authorized to agree to such other or additional terms and provisions as may be necessary in order to finance the construction and operation of said canal. Bonds or obligations issued or executed by the corporation shall be what is commonly termed "revenue bonds" and shall not constitute or be a debt or general obligation of the state. The payment thereof, both as to principal and interest, shall be made solely out of the tolls and revenues to be derived from the operation of said canal and canal system, or from the proceeds of sales or leases of corporate property, and this fact shall be stated on the face of the bonds.

History.—s. 6, ch. 16176, 1933; s. 12, ch. 79-167; s. 5, ch. 84-207.

[1]Note.—Repealed by s. 12, ch. 79-167, effective upon the effective date of deauthorization of the Cross Florida Barge Canal Project by the U.S. Congress, except for the possible effect of laws affecting this section prior to that date.

[1]374.071 **Eminent domain.**—The said corporation is hereby authorized and empowered to acquire by condemnation, rights-of-way of such lengths and widths as may be reasonably necessary for the proper construction and efficient operation, repair and improvement of said canal and canal system, its embankments, locks and appurtenances, for spoil areas and borrow pits and for approaches to bridges and tunnels, crossing over or under said canal, including the right to condemn such rights-of-way (of the lengths and widths as above set forth) over property already devoted to public use for railroad, canal or other public utility purposes, wherever the route of such canal may cross the same, and said corporation shall also have the right to acquire by gift, purchase or condemnation, land, timber, earth, rock and other materials or property, and property rights, including riparian rights, in such amounts as may be reasonably necessary or useful in the construction, operation, repair or improvement of said canal and canal system, its improvements, locks and appurtenances. Condemnation proceedings shall be maintained by and in the name of the corporation and the procedure shall be, except insofar as is altered hereby, that now prescribed for condemnation proceedings by railroad corporations in this state.

History.—s. 7, ch. 16176, 1933; s. 12, ch. 79-167; s. 5, ch. 84-207.

[1]Note.—Repealed by s. 12, ch. 79-167, effective upon the effective date of deauthorization of the Cross Florida Barge Canal Project by the U.S. Congress, except for the possible effect of laws affecting this section prior to that date.

[1]374.081 **State lands; right of taking.**—This corporation shall have the right to take, exclusively occupy, use and possess, insofar as may be necessary for carrying out the provisions of this act, any areas of land owned by the state, not in use for state purposes, including swamp and overflowed lands, bottoms of streams, lakes, rivers, bays, the sea and arms thereof and other waters of the state, and the riparian rights thereto pertaining; and when so taken and occupied, due notice of such taking and occupancy having been filed with the Department of State by the corporation, such areas of land are hereby granted to and shall be the property of the corporation. For the purposes of this section, the meaning of the term "use" shall include the removal of material from and the placing of material on any such land. In case it shall be held by any court of competent jurisdiction that there are any lands owned by the state which may not be so granted, then the provisions of this section shall continue in full force and effect as to all other lands owned by the state. The provisions of this section are subject to all laws and regulations of the United States with respect to navigable waters.

History.—s. 8, ch. 16176, 1933; ss. 10, 35, ch. 69-106; s. 12, ch. 79-167; s. 5, ch. 84-207.

[1]Note.—Repealed by s. 12, ch. 79-167, effective upon the effective date of deauthorization of the Cross Florida Barge Canal Project by the U.S. Congress, except for the possible effect of laws affecting this section prior to that date.

[1]374.091 **County donations of rights-of-way.**—The several counties of the state through which, or adjacent to the boundaries of which, may pass the route for the canal or any of its lateral or connecting branches are hereby authorized to donate to the corporation all necessary rights-of-way, or portions thereof, together with spoil areas, borrow pits, and other lands necessary or useful in the acquisition, construction, maintenance, and operation of the canal, including approaches for bridges and tunnels crossing over or under the canal, and to that end are vested with the power of eminent domain to condemn all necessary lands for the purpose of securing such rights-of-way, such condemnation proceedings to be brought, maintained, and prosecuted in the manner as prescribed in chapters 125 and 127. Such counties are further authorized and empowered to furnish to the corporation money, labor, materials, and other property, including reconstruction of highways, and bridges, necessitated in and by the construction of the canal system. The board of county commissioners of each of such counties is hereby authorized to determine the millage necessary to be levied and to levy a tax on real and personal property to procure the necessary funds for such purposes, which are hereby declared to be county purposes.

History.—s. 9, ch. 16176, 1933; s. 12, ch. 79-167; s. 5, ch. 84-207; s. 276, ch. 84-309.

[1]Note.—Repealed by s. 12, ch. 79-167, effective upon the effective date of deauthorization of the Cross Florida Barge Canal Project by the U.S. Congress, except for the possible effect of laws affecting this section prior to that date.

[1]374.101 **Tolls.**—The said corporation shall fix and shall have exclusive jurisdiction over the rates of tolls and rules for the use of said canal, without being subject to the supervisory control of any other state board or commission. Tolls may be collected on all vessels or watercraft that pass or repass through said canal or any portion thereof which the corporation may cut or construct, or through any channel not now navigable, that the corporation may have dredged or deepened; and all such vessels and watercraft shall be liable for such tolls and shall be subject to a prior lien therefor, and may be detained by the corporation until the same are paid and acquitted.

History.—s. 10, ch. 16176, 1933; s. 12, ch. 79-167; s. 5, ch. 84-207.

[1]Note.—Repealed by s. 12, ch. 79-167, effective upon the effective date of deauthorization of the Cross Florida Barge Canal Project by the U.S. Congress, except for the possible effect of laws affecting this section prior to that date.

[1]374.111 **Revenues, use.**—All revenues derived by the corporation from the operation of said canal shall be used exclusively for the payment of the administrative expenses of said corporation, the expenses of operation and maintenance of the canal, insurance premiums for insurance of such kinds and in such amounts as the board of directors may deem advisable and including such amounts as may be necessary, from time to time, for deepening and widening the main channel of the said canal, as the requirements of commerce may demand or make advisable.

tion would permit or assist in the accomplishment thereof, the liberal construction shall be chosen.

History.—s. 19, ch. 18678, 1937; s. 12, ch. 79-167; s. 3, ch. 84-287.

¹Note.—Repealed by s. 12, ch. 79-167, effective upon the effective date of deauthorization of the Cross Florida Barge Canal Project by the U.S. Congress, except for the possible effect of laws affecting this section prior to that date.

PART II

NAVIGATION DISTRICTS

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¹374.3001 Cross Florida Canal Navigation District; disposition of property and funds.—

(1) All property of the Cross Florida Canal Navigation District is hereby transferred to the Department of Natural Resources. All funds remaining in any account of the district and not legally obligated on the effective date of this section shall be transferred to the Department of Natural Resources, such funds to be included under the management plan repayment provisions pursuant to s. 253.783(2)(g).

(2) Upon deauthorization by Congress, there shall be appropriated $8,340,720 for the purpose of repaying to each county of the Cross Florida Canal Navigation District that amount of principal which it contributed. The accrual of interest shall cease upon payment of the $8,340,720 principal.

(3) Upon repayment to the counties of the Cross Florida Canal Navigation District, as specified in this act, any funds derived from the management or disposition of lands of the Cross Florida Barge Canal Project will be deposited in the Cross Florida Barge Canal Trust Fund.

(4) This act shall not be construed to abrogate or impair any contractual agreement entered into by the canal authority or the Board of Commissioners of the Cross Florida Canal Navigation District.

History.—ss. 2, 8, 11, 14, ch. 79-167; ss. 4, 5, ch. 84-287.

¹Note.—Effective only upon deauthorization of the Cross Florida Barge Canal Project by the United States Congress, on the effective date of such deauthorization by the United States Congress.

¹374.301 Ship canal navigation districts.—For the purpose of raising funds to be used by the canal authority of the state in paying for the cost of securing a right-of-way for a canal across the state, running through or adjacent to the counties hereinafter named, there is hereby created and incorporated a special taxing district consisting of the Counties of Duval, Clay, Putnam, Marion, Levy and Citrus. Said district shall be known and designated as "The Cross Florida Canal Navigation District," but shall in this act, for the purposes of brevity and convenience, be referred to as the "district," or the "navigation district."

History.—s. 1, ch. 17903, 1937; s. 1, ch. 61-280; s. 12, ch. 79-167; s. 3, ch. 84-287.

¹Note.—Repealed by s. 12, ch. 79-167, effective upon the effective date of deauthorization of the Cross Florida Barge Canal Project by the U.S. Congress, except for the possible effect of laws affecting this section prior to that date.

¹374.311 Board of commissioners.—A governing body for said district is created, consisting of five members, which body shall be designated as the "Board of Commissioners of the Cross Florida Canal Navigation District," but which shall, for purposes of brevity and convenience, be referred to as the "board," or the "district board," in this act. Their term of office shall be for 4 years or until their successors shall have been appointed and qualified; provided, however, that of the directors comprising the first governing body, two shall serve for a term of 4 years, one shall serve for a term of 3 years, one shall serve for a term of 2 years and one shall serve for a term of 1 year. The directors shall reside in the counties comprising the district with not more than one director to reside in any one county. The directors shall be appointed by the Governor.

History.—s. 2, ch. 17903, 1937; s. 2, ch. 61-280; s. 12, ch. 79-167; s. 2, ch. 82-[illegible]; s. 3, ch. 84-287.

¹Note.—Repealed by s. 12, ch. 79-167, effective upon the effective date of deauthorization of the Cross Florida Barge Canal Project by the U.S. Congress, except for the possible effect of laws affecting this section prior to that date. Repealed effective October 1, 1988, by s. 2, ch. 82-[illegible], and scheduled for review pursuant to s. 11.611 in advance of that date.

¹374.321 General powers and duties.—The district board shall have all the powers of a body corporate, including the power to sue and be sued; to make contracts; to adopt and use a common seal and to alter the same as may be deemed expedient; to rent, lease, buy, own, acquire and dispose of such property, real or personal, as the board may deem proper to carry out the provisions of this act; to appoint and employ and dismiss at pleasure such engineers, attorneys, auditors, consultants, and employees as the board may require, and to fix and pay the compensation thereof; to establish an office or offices for the transaction of its business, either in Tallahassee, or in some city within the district, and to change the same from time to time; to borrow money and, in the manner and subject to the limitations herein contained, to execute, issue and deliver promissory notes, warrants, bonds or other evidences of indebtedness; to pay all necessary costs and expenses involved and incurred in the formation and organization of the district, and incident to the administration and operation thereof, and to pay all other costs and expenses reasonably necessary or expedient in carrying out and accomplishing the purposes of this act; to do any and all other acts and things hereinafter authorized or required to be done, whether or not

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included in the general powers in this section mentioned; and to do any and all things necessary to accomplish the purposes of this act.

History.—s. 3, ch. 17022, 1935; s. 12, ch. 79-167; s. 2, ch. 83-265; s. 3, ch. 84-267.

[1] Note.—Repealed by s. 12, ch. 79-167, effective upon the effective date of deauthorization of the Cross Florida Barge Canal Project by the U.S. Congress, except for the possible effect of laws affecting this section prior to that date. Repealed effective October 1, 1989, by s. 2, ch. 83-265, and scheduled for review pursuant to s. 11.611 in advance of that date.

[1]374.331 **Surety bonds.**—Each member of the district board, before assuming to act as such, shall be required to give a good and sufficient surety bond in the sum of $10,000, payable to the Governor of the state, and his successors in office, conditioned upon the faithful performance of his duties as a member of the district board and as a member of the board of directors of said authority. Such bonds shall be approved by and filed with the Department of Banking and Finance, and the premium or premiums thereon shall be paid by the district board as a necessary expense of the district.

History.—s. 4, ch. 17022, 1935; ss. 12, 35, ch. 69-106; s. 12, ch. 79-167; s. 2, ch. 83-265; s. 5, ch. 84-267.

[1] Note.—Repealed by s. 12, ch. 79-167, effective upon the effective date of deauthorization of the Cross Florida Barge Canal Project by the U.S. Congress, except for the possible effect of laws affecting this section prior to that date. Repealed effective October 1, 1989, by s. 2, ch. 83-265, and scheduled for review pursuant to s. 11.611 in advance of that date.

[1]374.341 **Rules and regulations; committees; quorum.**—The district board shall have power to adopt, alter, or repeal its own bylaws, rules and regulations governing the manner in which its business may be transacted and in which the power granted to it may be enjoyed, and may provide for the appointment of such committees, and the functions thereof, as the board may deem necessary or expedient in facilitating its business. Three members of the board (one of whom may be the chairman), shall constitute a quorum for the transaction of business, and a majority vote of all members present shall be necessary in order to authorize any action by the board. The chairman shall be entitled to vote on all questions.

History.—s. 5, ch. 17022, 1935; s. 12, ch. 79-167; s. 2, ch. 83-265; s. 6, ch. 84-267.

[1] Note.—Repealed by s. 12, ch. 79-167, effective upon the effective date of deauthorization of the Cross Florida Barge Canal Project by the U.S. Congress, except for the possible effect of laws affecting this section prior to that date. Repealed effective October 1, 1989, by s. 2, ch. 83-265, and scheduled for review pursuant to s. 11.611 in advance of that date.

[1]374.351 **Compensation and expenses; executive secretary-treasurer.**—Each member of the district board shall receive a per diem allowance and traveling expenses as provided by s. 112.061, for each day's service, but neither such per diem nor mileage shall be paid unless the service performed has been authorized and payment approved by the board. The board may select one of its members to serve as its executive secretary and treasurer, or one of its members as executive secretary and one as treasurer, and in that event he or they shall receive such additional compensation, commensurate with the duties and responsibilities placed upon him or them as the board may determine. The board may, however, in its discretion, appoint a nonmember of the board as such executive secretary and treasurer, or it may appoint a member as executive secretary and a nonmember as treasurer, or vice versa, or it may appoint two nonmembers, one as executive secretary and one as treasurer. In any of such events, the board shall require a surety bond of such appointee or appointees in such amount as the board may fix, which bond, in the case of the appointment of a member of the board, shall be in addition to the bond furnished by him as a board member.

History.—s. 6, ch. 17022, 1935; s. 1, ch. 63-216; s. 12, ch. 79-167; s. 2, ch. 83-265; s. 5, ch. 84-267.

[1] Note.—Repealed by s. 12, ch. 79-167, effective upon the effective date of deauthorization of the Cross Florida Barge Canal Project by the U.S. Congress, except for the possible effect of laws affecting this section prior to that date. Repealed effective October 1, 1989, by s. 2, ch. 83-265, and scheduled for review pursuant to s. 11.611 in advance of that date.

[1]374.361 **Issuance of bonds.**—

(1) In order to carry out the purposes of this act, the district board is authorized and empowered to issue, in the corporate name of the district, negotiable bonds in an amount not exceeding the sum of $2,750,000 bearing interest at a rate to be fixed by the board, but not in excess of 7.5 percent per annum. Such bonds shall mature at the time or times and shall be issued in the manner and on the terms and conditions, as hereinafter set forth.

(2) The proceeds of all bonds so issued, over and above the amounts which may be necessary to retire the outstanding promissory notes of the district, and over and above the amounts reasonably necessary for the board to retain in order to cover its administrative and operating expenses, shall be turned over to the canal authority, to be used by it in paying the costs and expenses of acquiring a right-of-way for a canal across the state, running through or adjacent to the boundaries of the counties comprising the district, together with sea and river approaches thereto and such lateral and connecting branches as may be necessary or desirable, and in paying its administrative and operating expenses while so engaged in the acquisition of said right-of-way, and paying for any other expenses authorized to be incurred by said authority in and by part I of this chapter. All of the said bonds need not be sold at once, but the same shall be sold in such amounts, and at such times as to meet the monetary needs of the authority in acquiring the said right-of-way, and so that the acquisition thereof by the authority shall not be delayed or interrupted by lack of funds.

(3) Any of the proceeds of such bonds, or other district moneys which may have been turned over to the authority as in this act provided, and which shall not be needed for the purpose of acquiring said right-of-way or in paying the costs and expenses incident thereto, shall, after said right-of-way shall have been completely secured, be returned and repaid to the district and paid into the bond sinking fund to be created as hereafter provided.

(4) If any of the bonds authorized to be issued and sold hereunder, have not been sold by the time said right-of-way shall have been completely acquired, and after all expenses incident to such acquisition have been paid, then such bonds shall not be sold thereafter, but the same shall be canceled, and any unused portion of said bonds at that time still remaining in the hands of the district board shall be paid into the said bond sinking fund.

History.—s. 7, ch. 17022, 1935; s. 1, ch. 61-300; s. 25, ch. 73-302; s. 12, ch. 79-167; s. 2, ch. 83-265; s. 6, ch. 84-267.

[1] Note.—Repealed by s. 12, ch. 79-167, effective upon the effective date of deauthorization of the Cross Florida Barge Canal Project by the U.S. Congress, ex-

cept for the possible effect of laws affecting this section prior to that date. Repealed effective October 1, 1989, by s. 2, ch. 83-265, and scheduled for review pursuant to s. 11.611 in advance of that date.

[1]374.371 **Promissory notes, issuance, repayment.**—The district board is authorized and empowered, in order to provide itself and the canal authority with immediate funds, to borrow money, for a period or periods not exceeding 1 year, and to issue its promissory notes therefor, upon such terms, and at such rate or rates of interest, not exceeding 7½ percent per annum, as the board may deem advisable; provided, however, that the total amount of money so borrowed on promissory notes as aforesaid, shall not exceed the sum of $200,000. Such notes shall be repaid out of the proceeds of the bond issue hereinafter provided for, unless no bonds are issued or approved, in which event the district board shall make provision in its tax levy for the raising of sufficient funds for the repayment of said notes. The moneys so borrowed on such notes may be used for the purpose of providing the board with sufficient funds with which to administer and operate the district until the proceeds of the bond issues or tax levies hereinafter provided for are available, including all expenses necessarily incurred in calling and holding the election hereinafter provided for; and the remainder thereof shall be turned over to the canal authority, for the same purposes, and in the same manner and subject to the same terms and conditions as are herein set forth with reference to the net proceeds of the bond issue as above provided.

History.—s. 9, ch. 17023, 1935; s. 4, ch. 61-288; s. 118, ch. 77-104; s. 12, ch. 79-167; s. 2, ch. 83-265; s. 5, ch. 84-287.

[1]Note.—Repealed by s. 12, ch. 79-167, effective upon the effective date of deauthorization of the Cross Florida Barge Canal Project by the U.S. Congress, except for the possible effect of laws affecting this section prior to that date. Repealed effective October 1, 1989, by s. 2, ch. 83-265, and scheduled for review pursuant to s. 11.611 in advance of that date.

[1]374.391 **Bonds; procedure for issuance and calling.**—The bonds of the district issued pursuant to the provisions of this act shall be authorized by a resolution of the board and shall be serial bonds maturing at such time or times not exceeding 30 years from their respective dates, be in such denominations, be in such form, either coupon or fully registered, shall carry such registration, exchangeability or interchangeability privileges, be payable in such medium or payment and at such place or places, and be subject to such terms or redemption as such resolution or any resolution subsequent thereto may provide. The bonds shall be executed either by manual or facsimile signature by such officer or officers as the board shall determine, provided that such bonds shall bear at least one signature which is manually executed thereon, and the coupons attached to such bonds, if any, shall bear the facsimile signature or signatures of such officer or officers as shall be designated by the board and shall have the seal of the district affixed, imprinted, reproduced or lithographed thereon, all as may be prescribed in such resolution or resolutions. The bonds issued hereunder shall be sold at public sale at such price or prices as the board shall determine to be in the best interest of the district, provided that the interest cost to the district of such bonds shall not exceed 7.5 percent per annum.

History.—s. 10, ch. 17023, 1935; s. 6, ch. 61-288; s. 31, ch. 73-302; s. 12, ch. 79-167; s. 2, ch. 83-265; s. 5, ch. 84-287.

[1]Note.—Repealed by s. 12, ch. 79-167, effective upon the effective date of deauthorization of the Cross Florida Barge Canal Project by the U.S. Congress, except for the possible effect of laws affecting this section prior to that date. Repealed effective October 1, 1989, by s. 2, ch. 83-265, and scheduled for review pursuant to s. 11.611 in advance of that date.

[1]374.401 **Bonds; signatures.**—In case any chairman or secretary of said board, whose signature, countersignature, or certificate appears upon any of the bonds authorized by this act, or coupons thereon, shall cease to be such chairman or secretary, before the delivery of such bonds to the purchaser, the signature or countersignature, or certificate shall nevertheless be valid and sufficient for all purposes, the same as if such chairman or secretary had continued to be such chairman or secretary until the delivery of the bonds.

History.—s. 11, ch. 17023, 1935; s. 12, ch. 79-167; s. 2, ch. 83-265; s. 5, ch. 84-287.

[1]Note.—Repealed by s. 12, ch. 79-167, effective upon the effective date of deauthorization of the Cross Florida Barge Canal Project by the U.S. Congress, except for the possible effect of laws affecting this section prior to that date. Repealed effective October 1, 1989, by s. 2, ch. 83-265, and scheduled for review pursuant to s. 11.611 in advance of that date.

[1]374.411 **Bonds; election for issuance.**—

(1) Before issuing any bonds, the issue shall be provided for by a resolution of the district board, setting forth the amount of bonds proposed to be issued, the denominations and date or dates of maturity thereof, the rate of interest the same are to bear, the time and place where the bonds and the interest thereon shall be payable, and such other terms and conditions as authorized by this act, upon which it is proposed to issue the bonds. The resolution shall further call for and fix a date and otherwise provide for the holding of an election for submission to the qualified freeholders residing in the district, for their approval or disapproval, of the question of the issuance of the bonds. Notice of the resolution and election shall be published in each county in the district once a week for 4 consecutive weeks before the election is held. The board shall cause to be prepared a sufficient number of ballots to be used at the election, which ballots shall be in substantially the following form:

OFFICIAL BALLOT
SPECIAL BONDING ELECTION
The Florida Canal Navigation District
(Place a crossmark (x) before the proposition of your choice)

FOR: Issuing Florida Canal Navigation District Bonds in an amount not to exceed the sum of $2,750,000 bearing interest at the rate of 7.5 percent per annum, the proceeds of which bonds, or so much thereof as may be necessary, to be used in acquiring a right-of-way for a canal across the state of Florida, running through said district.

AGAINST: Issuing Florida Canal Navigation District Bonds in an amount not to exceed the sum of $2,750,000 bearing interest at the rate of 7.5 percent per annum, the proceeds of which bonds, or so much thereof as may be necessary, to be used in acquiring a right-of-way for a canal across the state of Florida, running through said district.

(2) The election shall be held at the several places in the district where the last general election was held in each of the counties of the district, unless the

district board shall otherwise direct, and said board shall appoint the inspectors and clerks of election for each of the election precincts in said district. Only the freeholders who are qualified electors, as herein provided, and residing in said district shall be eligible to vote in said election. The election shall be conducted and the canvass of the votes certified to and returned, and the returns canvassed substantially in the manner and within the time prescribed by general law for holding bond elections, except as herein otherwise provided, and except that the returns of the election from each precinct in each of the counties in said district shall be delivered to the chairman and secretary of the district board instead of to the county officers or official to whom the returns are usually made. The board shall hold a meeting as soon thereafter as is practicable for the purpose of canvassing the election returns and certifying the returns. If a majority of the freeholders who are qualified electors residing in the district shall have participated in the election and a majority of the votes cast in the election are in favor of the issuance of the bonds, then the district board shall be authorized to issue and sell the bonds, in the manner as herein authorized, in the amount specified in the resolution calling the election, and to use the proceeds as authorized in this act. If, however, a majority of the freeholders who are qualified electors residing in the district shall not have participated in the election, or if a majority of the freeholders shall have participated but less than a majority of the votes cast are in favor of the issuance of the bonds, then and in either of such cases, no bonds shall be issued.

History.—s. 12, ch. 17033, 1935; s. 7, ch. 61-209; s. 2, ch. 65-62; s. 106, ch. 71-355; s. 22, ch. 73-332; s. 12, ch. 79-167; s. 2, ch. 83-265; s. 5, ch. 84-287.

[1] **Note.**—Repealed by s. 12, ch. 79-167, effective upon the effective date of deauthorization of the Cross Florida Barge Canal Project by the U.S. Congress, except for the possible effect of laws affecting this section prior to that date. Repealed effective October 1, 1989, by s. 2, ch. 83-265, and scheduled for review pursuant to s. 11.611 in advance of that date.

[1]**374.421 Bonds; additional elections.**—In the event the issuance of the bonds is not approved by the first election held under this act, the district board shall be authorized to call another election on the question of the issuance of such bonds, such election to be held not sooner than 6 months after the first election, and further elections may be called and held, but not oftener than 6 months apart.

History.—s. 13, ch. 17033, 1935; s. 12, ch. 79-167; s. 2, ch. 83-265; s. 5, ch. 84-287.

[1] **Note.**—Repealed by s. 12, ch. 79-167, effective upon the effective date of deauthorization of the Cross Florida Barge Canal Project by the U.S. Congress, except for the possible effect of laws affecting this section prior to that date. Repealed effective October 1, 1989, by s. 2, ch. 83-265, and scheduled for review pursuant to s. 11.611 in advance of that date.

[1]**374.431 Legality of bond issue; protest.**—No proceedings shall be brought by anyone to contest or question the legality or validity of the bond issue after the expiration of the period of 30 days following the publication of the first notice of the board's resolution authorizing the issuance of the bonds, as provided in s. 374.411.

History.—s. 14, ch. 17033, 1935; s. 12, ch. 79-167; s. 2, ch. 83-265; s. 5, ch. 84-287.

[1] **Note.**—Repealed by s. 12, ch. 79-167, effective upon the effective date of deauthorization of the Cross Florida Barge Canal Project by the U.S. Congress, except for the possible effect of laws affecting this section prior to that date. Repealed effective October 1, 1989, by s. 2, ch. 83-265, and scheduled for review pursuant to s. 11.611 in advance of that date.

[1]**374.441 Security for bonds.**—Any and all bonds issued pursuant to the authority contained in this act, when sold, issued and delivered, shall become and be binding, valid and legal obligations of the navigation district, and for the security and payment of the bonds and the interest thereon, the entire taxable property lying within the district, and the full faith and credit thereof shall be pledged.

History.—s. 15, ch. 17033, 1935; s. 12, ch. 79-167; s. 2, ch. 83-265; s. 5, ch. 84-287.

[1] **Note.**—Repealed by s. 12, ch. 79-167, effective upon the effective date of deauthorization of the Cross Florida Barge Canal Project by the U.S. Congress, except for the possible effect of laws affecting this section prior to that date. Repealed effective October 1, 1989, by s. 2, ch. 83-265, and scheduled for review pursuant to s. 11.611 in advance of that date.

[1]**374.451 Bonds; validity and incontestability.**—This act, without reference to any other act or statute of the Legislature of the state, shall be full authority for the issuance and sale of the bonds herein authorized, which bonds shall have all the qualities of negotiable paper and which shall not be invalid because of any irregularity or defect in the proceedings for the issuance and sale thereof, and any and all such bonds shall be incontestable in the hands of bona fide purchasers thereof. All the bonds, regardless of time of sale, shall be of equal rank and without priority of one over the other, except as to the time of maturity as may be fixed in the bonds. No proceedings in respect to the issuance of said bonds shall be necessary, except such as are required by this act. Provided, however, that the district board may, if it deems such action expedient, validate the bonds, in the same manner as is provided by general law for the validation of bonds of counties and municipalities. If the validation proceedings are pursued, they may be instituted by petition filed in the circuit court in and for Duval County, and the proceedings thereon shall be conducted in the same manner and shall have the same effect as is provided by general law for the validation of county and municipal bonds except that notice of hearing on the petition shall be given by publication in one or more newspapers published in each county in the district, once a week for 3 consecutive weeks, the first publication to be at least 18 days prior to the date fixed for the hearing.

History.—s. 16, ch. 17033, 1935; s. 12, ch. 79-167; s. 2, ch. 83-265; s. 5, ch. 84-287.

[1] **Note.**—Repealed by s. 12, ch. 79-167, effective upon the effective date of deauthorization of the Cross Florida Barge Canal Project by the U.S. Congress, except for the possible effect of laws affecting this section prior to that date. Repealed effective October 1, 1989, by s. 2, ch. 83-265, and scheduled for review pursuant to s. 11.611 in advance of that date.

[1]**374.461 Bonds; sale.**—The district board, after the approval of the issuance of the bonds at the election hereinabove provided for, shall have the power and authority to proceed forthwith to sell all of the bonds or portions thereof from time to time, at public sale, or upon sealed proposals, to the highest bidder for cash, after due notice thereof shall have been published in a newspaper published in Duval County, once a week for 2 consecutive weeks, provided, however, that the bonds shall not be sold for less than 95 cents on the dollar, plus accrued interest thereon to the date of delivery. The board shall have the right to reject any or all bids, and if no satisfactory bid is received on the day advertised for the sale thereof, the bonds or any part thereof may be sold at private sale at any time within 60 days thereafter, at not less than

the highest bid received at the advertised sale, and at not less than the above stated minimum price of 96 cents on the dollar, plus accrued interest to date of delivery. The board may, however, sell any or all of the bonds at private sale at any time, whether notice has been published or not, provided that they are sold for not less than par plus accrued interest to date of delivery.

History.—s. 17, ch. 17023, 1935; s. 12, ch. 79-167; s. 2, ch. 83-265; s. 5, ch. 84-287.

[1] Note.—Repealed by s. 12, ch. 79-167, effective upon the effective date of deauthorization of the Cross Florida Barge Canal Project by the U.S. Congress, except for the possible effect of laws affecting this section prior to that date. Repealed effective October 1, 1989, by s. 2, ch. 83-265, and scheduled for review pursuant to s. 11.611 in advance of that date.

[1]374.471 **Sinking fund.**—It shall be the duty of the treasurer of the district, as custodian of the funds belonging thereto, out of the proceeds of the taxes levied and imposed as provided in this act, and out of any other moneys in his possession belonging to the district (all of which moneys, so far as may be necessary, are appropriated for the purpose), to pay the interest on and principal of the bonds as the same shall fall due. There is hereby created a sinking fund for the payment of the principal of all of the bonds, and until all of the bonds issued shall have been paid, or until there shall have been accumulated in said sinking fund sufficient funds to pay all of such bonds, the board shall set apart and pay into said sinking fund annually, beginning with the year following the year in which the bonds are issued, out of taxes levied and imposed by this act and other funds of the district at least 3.5 percent of the total amount of bonds issued and sold hereunder. The sinking fund for the payment of the bonds shall not be appropriated to or used for any other purpose.

History.—s. 18, ch. 17023, 1935; s. 12, ch. 79-167; s. 2, ch. 83-265; s. 5, ch. 84-287.

[1] Note.—Repealed by s. 12, ch. 79-167, effective upon the effective date of deauthorization of the Cross Florida Barge Canal Project by the U.S. Congress, except for the possible effect of laws affecting this section prior to that date. Repealed effective October 1, 1989, by s. 2, ch. 83-265, and scheduled for review pursuant to s. 11.611 in advance of that date.

[1]374.481 **Redemption of bonds, investment of sinking fund.**—The board is hereby authorized and empowered to invest the moneys belonging to the sinking fund in bonds issued under the provisions of this act, or in bonds issued by the United States. Whenever necessary or expedient in the opinion of the board, the securities in said sinking fund may be sold and the proceeds used in paying maturing bonds of the district or in calling the bonds for redemption as hereinabove in s. 374.391 provided, or for the purpose of being invested in conformity with the provisions hereof. Provided, however, that whenever the total amount of money in the sinking fund (computing the bonds held as cash on the basis of their then market value, less the cost of sale), shall exceed the amount necessary to pay bonds maturing during the next ensuing 12 months, the surplus shall immediately be used by the board for the purpose of calling bonds for redemption in the manner as prescribed in s. 374.391.

History.—s. 19, ch. 17023, 1935; s. 12, ch. 79-167; s. 2, ch. 83-265; s. 5, ch. 84-287.

[1] Note.—Repealed by s. 12, ch. 79-167, effective upon the effective date of deauthorization of the Cross Florida Barge Canal Project by the U.S. Congress, except for the possible effect of laws affecting this section prior to that date. Repealed effective October 1, 1989, by s. 2, ch. 83-265, and scheduled for review pursuant to s. 11.611 in advance of that date.

[1]374.491 **Deposit of funds.**—All district funds shall be deposited in a bank or banks to be designated by the board, including federal savings and loan associations. The board shall designate as such depository or depositories the bank or banks that will offer the best inducement as to the payment of interest on daily balances, but before any district moneys are deposited in the depository or depositories, security ample to protect the deposits shall be furnished to the district (without expense to the district), which security shall be in the form either of a surety bond or bonds executed by a surety company or companies authorized to do business in this state, or in the form of a deposit, to the credit of the district, of bonds of the United States or of the district, or insurance for the full amount of the deposit through an agency of the United States. Funds of the district shall be paid out only upon warrant signed by the treasurer of the board and countersigned by the chairman or vice chairman. No warrants shall be drawn or issued disbursing any of the funds of the district except for a purpose authorized by this act and only when the account or expenditure for which the same is to be given in payment has been ordered or approved by the board.

History.—s. 20, ch. 17023, 1935; s. 4, ch. 61-288; s. 12, ch. 79-167; s. 2, ch. 83-265; s. 5, ch. 84-287.

[1] Note.—Repealed by s. 12, ch. 79-167, effective upon the effective date of deauthorization of the Cross Florida Barge Canal Project by the U.S. Congress, except for the possible effect of laws affecting this section prior to that date. Repealed effective October 1, 1989, by s. 2, ch. 83-265, and scheduled for review pursuant to s. 11.611 in advance of that date.

[1]374.501 **Levy of taxes.**—

(1) The navigation district shall have, and it is hereby granted, the power to levy, assess, collect and enforce taxes upon all taxable real and personal property in the district, subject to the limitations and restrictions herein contained. The maximum amount of taxation which the district board shall be authorized to levy in any one year shall not exceed six-tenths mill on the dollar on the assessed evaluation of the district. The amount of such levy to be made each year by the district shall be determined by resolution of the district board; and a certified copy of such tax resolution executed in the name of the board by its chairman and attested by its secretary under its corporate seal, shall be delivered to the board of county commissioners of each and every county in the district and to the Department of Revenue immediately after the adoption of such resolution. The moneys received by the district from such levy shall be used by it as follows:

(a) To furnish the amount needed by the board for the annual administrative and operating expenses of the district which amount shall not exceed the amount which would be raised by a levy of one-tenth mill on the dollar on the assessed valuation of the district.

(b) The balance of the amount raised by such annual levy shall be used for the payment of the principal of and interest on the outstanding bonds of the district becoming due and payable during the ensuing year, and for the establishment of reserves for such purposes. If no bonds of the district be outstanding, then the proceeds of said levy, less the amount needed for the annual administrative and operating expenses of the district, shall be turned over by the district to the canal authority of the state to be used by it in acquiring the necessary right-of-way for the Cross Florida Barge Canal, as herein provided.

(2) It shall be the duty of each of said boards of county commissioners, each year, to order the property appraisers of each of said counties to levy and assess, and the county tax collector to collect a tax at the rate fixed by the said resolution of the district board upon all of the real and personal property in said counties for said year and said levies and assessments shall be included in the tax roll and warrant of the property appraisers in each of said counties for such year. The tax collector of each said county shall collect such taxes so levied by the district board in the same manner and at the same time as state and county taxes are collected and shall pay and remit the same upon collection, within the time and in the manner required by law, to the district board.

(3) The property appraiser, tax collector, and the board of county commissioners of each and every county in said district shall, when requested by the district board, prepare from their official records and deliver to the board any and all information that may be requested from time to time from him or them regarding the tax valuations, levies, assessments or collections in such counties.

(4) If any of the lands acquired by the canal authority of Florida with funds provided by the Cross Florida Canal Navigation District under this act become surplus after the rights-of-way needs of the canal authority have been met, such land may be sold and the proceeds of such sale shall be paid to the counties comprising said district in direct proportion to the contribution of each county to the Cross Florida Navigation District.

History.—s. 21, ch. 17032, 1935; s. 2, ch. 61-388; ss. 1, chs. 69-337, 69-406; ss. 21, 35, ch. 69-106; s. 1, ch. 77-102; s. 12, ch. 79-167; s. 2, ch. 83-265; s. 5, ch. 84-287.

[1] **Note.**—Repealed by s. 12, ch. 79-167, effective upon the effective date of deauthorization of the Cross Florida Barge Canal Project by the U.S. Congress, except for the possible effect of laws affecting this section prior to that date. Repealed effective October 1, 1989, by s. 2, ch. 83-265, and scheduled for review pursuant to s. 11.611 in advance of that date.

[1]374.511 Publication of financial statement.—At least once in each year the district board shall publish once in some newspaper published in each of the counties of the district, a complete detailed statement of all moneys received and disbursed by the district during the preceding year. Such statement shall also show the several sources from which such funds were received, and the balance on hand at the time of publishing the statement, and shall show the complete financial condition of the district.

History.—s. 22, ch. 17032, 1935; s. 12, ch. 79-167; s. 2, ch. 83-265; s. 5, ch. 84-287.

[1] **Note.**—Repealed by s. 12, ch. 79-167, effective upon the effective date of deauthorization of the Cross Florida Barge Canal Project by the U.S. Congress, except for the possible effect of laws affecting this section prior to that date. Repealed effective October 1, 1989, by s. 2, ch. 83-265, and scheduled for review pursuant to s. 11.611 in advance of that date.

[1]374.521 Liberal construction.—It is intended that the provisions of this act shall be liberally construed to accomplish the purposes provided for, or intended to be provided for, herein, and where strict construction would result in the defeat of the accomplishment of any of the acts authorized herein, and a liberal construction would permit or assist in the accomplishment thereof, the liberal construction shall be chosen.

History.—s. 23, ch. 17032, 1935; s. 12, ch. 79-167; s. 5, ch. 84-287.

[1] **Note.**—Repealed by s. 12, ch. 79-167, effective upon the effective date of deauthorization of the Cross Florida Barge Canal Project by the U.S. Congress, except for the possible effect of laws affecting this section prior to that date.

CHAPTER 375

OUTDOOR RECREATION AND CONSERVATION

375.031 Acquisition of land; procedures.

375.031 Acquisition of land; procedures.—

(1) The department is empowered and authorized to identify for acquisition lands, water areas, and related resources and to perform all other activities necessary or incident to improving, maintaining, selling, leasing, or disposing of land, water areas, and related resources, and improvements thereon. Prior to the acquisition of such land by the department, the seller of the land shall file a statement with the Department of State disclosing, for at least the last 5 years prior to the conveyance of title to the state, all financial transactions concerning the land, all parties having a financial interest in any transaction, and the amount of the tax assessment thereon for each year. The Board of Trustees of the Internal Improvement Trust Fund shall hold title to lands so acquired, but the beneficial use, control, and management shall be with the department. All lands identified for acquisition under this chapter shall be acquired with funds from the Land Acquisition Trust Fund.

(2) The department may acquire, control, and oversee the development and use of all land, water areas, and related resources generally classified as outdoor areas and may construct, improve, enlarge, extend, and maintain capital improvements and facilities upon such outdoor areas as needed. In performing these functions, the department shall give full consideration to the recommendations of the committee and of other agencies using or desiring to use land or water areas provided by the department.

(3)(a) All land, water areas, and related resources hereafter needed by the state for outdoor recreation, wildlife management, forestry management, nature preservation, water conservation and control, and other similar or related purposes shall be acquired by the Division of State Lands of the Department of Natural Resources pursuant to the procedures set forth in chapter 253.

(b) On behalf of the Board of Trustees of the Internal Improvement Trust Fund and before the appraisal of a parcel approved for purchase pursuant to this chapter, the executive director of the Department of Natural Resources or the director of the Division of State Lands may enter into an option contract to buy such parcel. The option contract shall state that the final purchase price is subject to approval by the board and that this price may not exceed the maximum offer allowed by law. The consideration for such option may not exceed $1,000 or .01 percent of the estimate by the department of the value of the parcel, whichever is greater.

(4) The department may acquire by purchase, lease-purchase agreement, or otherwise, on such terms and conditions as it deems wise, any land, wa-

Defendants. VERDICT. Palatka, Florida, November 13, 1967. WE, THE JURY, find for the Petitioner, The Canal Authority of the State of Florida, and further find that the said Petitioner is entitled to acquire the following interests in connection with the construction, operation and maintenance of the Cross Florida Barge Canal Project as now authorized by Congress, to-wit: The perpetual right and easement to enter upon, dig, cut away and permanently or intermittently overflow, flood and submerge the lands described herein in connection with the construction, operation, and maintenance of the Cross Florida Barge Canal Project as now authorized by Congress or as may in the future be modified; Also, the right to regulate and maintain water levels as may be required for the impoundment and maintenance of the pools as a part of the navigable waters of the United States including full public rights of navigation; The right to regulate, prohibit withdrawal, and control use, introduction and/or removal of water; The right to dig, cut away and remove dredged or other materials and to deposit and/or stockpile dredged or other materials on any portion of said tract not cut away in connection with the construction or maintenance of said project; The continuing right to clear any and all parts of the lands described herein of any trees, bushes, vegetation, debris, structures, or any other obstructions and to dispose of, remove or deposit thereon the materials cleared from said tract and to maintain the areas cleared; The right to plant and control vegetation; The right to spray insecticides and exercise other rights necessary for mosquito control; The right to prevent the construction of or maintenance of structures for human habitation; The right to exercise any and all other rights not hereinabove enumerated for the preservation and maintenance of navigation; in and to the following described land, situate, lying and being in the County of Putnam, State of Florida, more particularly described as follows:

Exhibit J

CANAL AUTHORITY - STATE OF FLORIDA
PERPETUAL EASEMENTS

Name	County	Number	Acres	How Acquired	Project	
1. Jeffords, et al	Putnam	109	2.36	Condemned ($1000)	Access Road	
2. Tilton, et al	Putnam	109	270.16	Condemned ($18363)	Rodman Dam	Lake Ocklawaha Total - 7767 acres
3. Miller, et al	Putnam	109-3-14/3 109-7-1/2/etc.	3300.3	Condemned ($327481)	Rodman Pool	All except access (#1, #9 & #10) are #6 are partially inundated at current Lake level
4. Tilton, et al	Putnam	109-6-1/7/14	4078.84	Condemned ($371800)	Rodman Pool	Two (#5 & #12) are within current Ocala Nat. Forest
	TOTAL - PUTNAM COUNTY		7651.66			
5. Alcorn	Marion	109-3-1/20-1	70	Donated	Rodman Pool	
6. Sims	Marion	109-2-10	3.75	Donated	Rodman Pool	
7. Verra	Marion	109-21-1/3	13.7	Donated	Rodman Pool	
8. Ocala Lumber	Marion	109-24-1	11.5	Donated	Rodman Pool	
9. Gill	Marion	109	2.5	Donated	Rodman Access	
10. Rucko	Marion	109	1.6	Donated	Rodman Access	
11. Dull	Marion	109-25-9/25	10	Donated	Rodman Pool	
12. Dudley	Marion	137	2.5	Donated	Rodman Pool	
13. McMullen	Marion	2-155	2.75	Donated	Eureka Pool	Eureka Pool Total-503 acres
14. Silver Springs, Inc.	Marion	105-56-1	481.22	Condemned ($175000)	Silver River	None utilized
15. Blitch, et al	Marion	109-57-1	19.2	Condemned ($6055)	Silver River	All are outside Ocala Nat. Forest
	TOTAL - MARION COUNTY		618.72			
16. Allen	Levy	15-2(309)	11	Donated	Inglis Pool	Lake Rousseau In completed works
	TOTAL - LEVY COUNTY		11			
17. Olin Mathieson	Citrus	16-201	117.34	Donated	West End	West End
18. Olin Mathieson	Citrus	16-201	3.02	Donated	West End	Total-123 acres
19. Collins/Rockefeller	Citrus	101	2.8	Donated	West End	All are utilized in completed works
	TOTAL - CITRUS COUNTY		123.16			
	TOTAL ALL COUNTIES		8404.54			

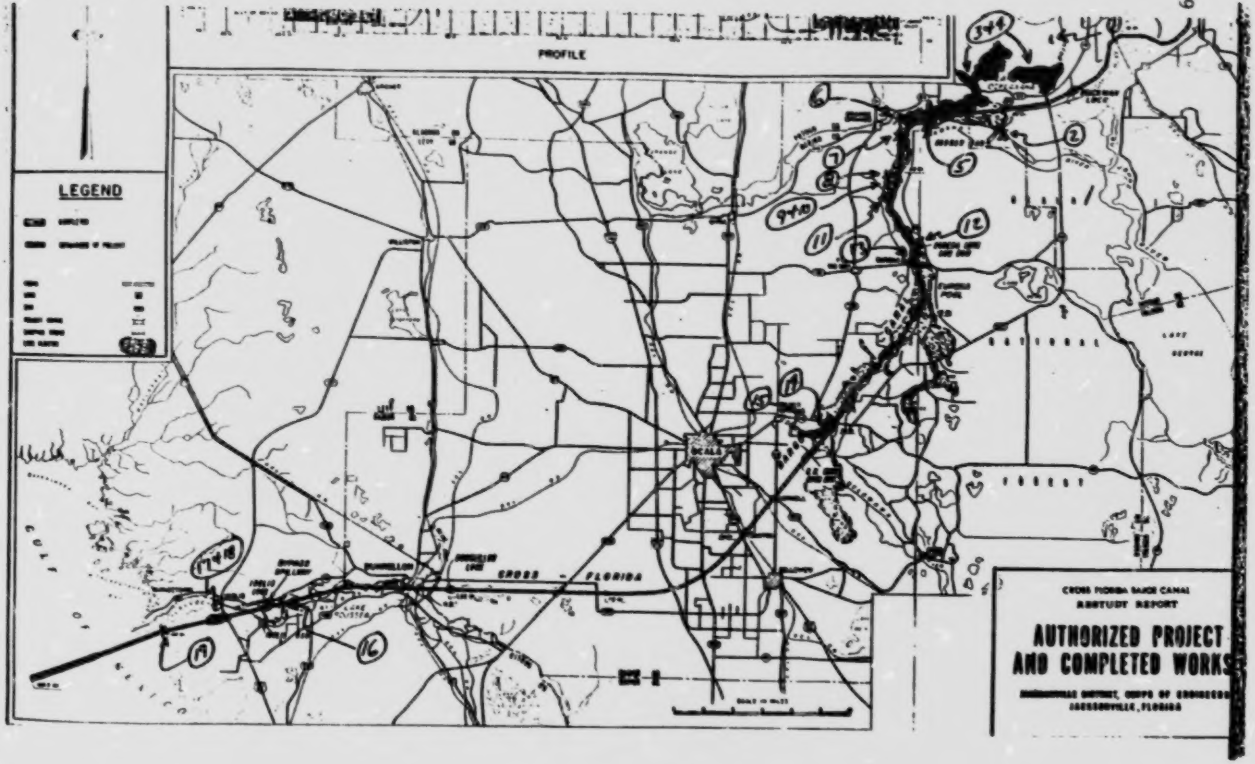
Marion County 3.73 acres Right-of-Entry

[illegible] 4700.85 acres

Total less-than-fee interest - 13,107.31 acres

[2-1-85]

Exhibit 6


PROFILE
LEGEND
CROSS - FLORIDA
OCALA
GULF OF MEXICO
NATIONAL
FOREST
3&4
6
2
5
7
8
9&10
11
12
13
14
15
16
17&18
19

CROSS FLORIDA BARGE CANAL
RESTUDY REPORT

AUTHORIZED PROJECT AND COMPLETED WORKS

JACKSONVILLE DISTRICT, CORPS OF ENGINEERS
JACKSONVILLE, FLORIDA

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> Such reports [of examination or treatment] shall not be furnished to any person other than the patient or his legal representative, except upon written authorization of the patient. Nothing, however, shall prevent the furnishing of such reports without written authorization to any person, firm, or corporation which, with the patient's consent, shall have procured or furnished such examination or treatment or when compulsory physical examination is made pursuant to Rule 1.360, Florida Rules of Civil Procedure, in which case copies of the medical report shall be furnished both the defendant and the plaintiff.

[2] It is clear that the detailed "birthing records" which are the subject of the dispute are not those of a licensed midwife, but those of a licensed physician who was supervising an applicant for a license to practice midwifery. Most of the information contained in those records could have been supplied only by one licensed to practice medicine, and therefore this information constitutes a report of treatment or examination as contemplated by Section 455.241. The records are thus exempt from disclosure under the Public Records Act.

We affirm the trial court's order insofar as it permits inspection of the application for a midwife's license, the certificate of having attended fifteen live births, and the attestations of physicians attending those births.[7] However, we reverse that part of the lower court's ruling which orders disclosure of the names and addresses of appellants and the medical details of the births. As to that information, made confidential by Sections 382.35 and 455.241, Section 119.07(3)(a) applies to provide an exemption from the disclosure requirement.

[3] We need not decide whether all reports filed by a midwife relating to professional services rendered are entitled to the same confidentiality as those filed by doctors, nurses, dental hygienists and veterinarians under Section 455.241, Florida Statutes (1981). Neither must we reach the constitutional issue presented by appellants. It is a settled principle of constitutional law that courts will not adjudicate constitutional questions where there are other grounds on which a cause may be disposed of. *State ex rel. Kennedy v. Knott*, 123 Fla. 295, 166 So. 835 (1936).

Affirmed in part and reversed in part.

The CANAL AUTHORITY OF the STATE of Florida, a body corporate under the laws of the State of Florida, Appellant,

v.

Joyce G. MAINER (formerly Joyce Elaine Gay), Ernest Gay, Ronald Gay and Vertoe Gay; Walter R. Berman, as Trustee; Francis S. Gay and Catherine Duane Gay; Ocala Manufacturing, Ice and Packing Company; Kenneth T. Hodges and Alverna C. Hodges, his wife; Hasty-Greene Investments, Inc., a Florida corporation; Silver Springs Shores, Inc., a Florida corporation; John H. Couse and Barnetta S. Couse; Astor West, Inc.; James J. Griffitts and Leola H. Griffitts, Appellees.

Nos. 82-817 to 82-827.

District Court of Appeal of Florida,
Fifth District.

Oct. 13, 1983.

Rehearings Denied Nov. 28, 1983.

The Circuit Court for Marion County, Wallace E. Sturgis, Jr., J., entered final judgments ordering State Canal Authority to convey lands back to former landowners and ordering former owners of parcel to

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[7] This includes the information already given to appellees, enumerated in note 2, *supra*, which was properly disclosed.

Exhibit 7

BEST COPY AVAILABLE

return purchase prices paid through various condemnation proceedings completed many years ago, and Authority appealed. The District Court of Appeal, Sharp, J., held that: (1) fee interests created by order of taking cannot be collaterally attacked on ground of failure of consideration unless extrinsic fraud is proved; (2) failure of consideration, absent affirmative showing of fraud, is not sufficient grounds for setting aside fully executed and recorded deed; but (3) owners of tenements servient to Authority's easements held their lands free from such easements due to abandonment of Authority's use and were not required to make quitclaim deeds or payments to Authority.

Reversed and remanded.

1. Eminent Domain 🔑242

Fee interests created by order of taking cannot be collaterally attacked on ground of failure of consideration unless extrinsic fraud is proved.

2. Cancellation of Instruments 🔑3

Failure of consideration, absent affirmative showing of fraud, is not sufficient grounds for setting aside fully executed and recorded deed.

3. Eminent Domain 🔑325

Where condemning authority has easement only and its right to use property has been lost or public use has ended, easement is extinguished and all its rights revert to owner of fee.

4. Eminent Domain 🔑325

Where condemning authority had easement only and use to be made by authority had been abandoned, owners of servient tenements held their lands free from public easements and no quitclaim deeds or payments to authority were required.

5. Eminent Domain 🔑246(5)

Abandonment after fee owner's right to damages become vested will not entitle condemning authority to recover funds paid to owners.

Jim Smith, Atty. Gen. and Louis F. Hubener, Asst. Atty. Gen., Tallahassee, for appellant.

C. Ray Greene, Jr., of Greene & Greene, P.A., Jacksonville, and Charles R. Forman, Ocala, for appellees.

SHARP, Judge.

The Canal Authority of the State of Florida appeals from eleven consolidated final judgments ordering it to convey lands back to appellees, the former landowners, and ordering the former owners of the parcels to return the purchase prices paid through various condemnation proceedings completed many years ago. We reverse.

The Canal Authority, a corporate entity created by state law [1], was formed in 1933. Construction of the canal project began in 1935, but stopped on June 20, 1936, when the initial congressional appropriation of federal funds was depleted. In 1942, the United States Congress continued the canal project by passing a law requiring local interests to provide the following assurances:

> To furnish lands and rights-of-way required for the Canal; to take over and maintain and operate all highway bridges and roadways after completion, and to protect the United States from damages incident to the construction of the Canal.

In 1960 the Canal Authority extended the required assurances, which were formally accepted in November 1963. The federal government then appropriated funds to recommence construction of the canal project. Work began again on the project in February 1964, and proceeded continuously thereafter until stopped by President Nixon's order on January 19, 1971. Only about 25 miles were actually excavated and none of the parcels in this case were involved in the construction. Nothing has been constructed since 1971 except for the completion of the State Road 40 bridge, the restoration work in connection with what was to have been the railroad bridge relocation at Dunnellon, and the construction of a fishing ramp platform for the handicapped at the spillway of Rodman Dam. Since 1971, no funds have been appropriated by the United States Congress for land acquisition, expansion, or construction of the canal project. In light of the above evidence, we affirm the trial court's finding that the plans of the Canal Authority to construct the canal project have been abandoned,[2] but we disagree as to the court's application of this finding to the law in these cases.

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[1] Ch. 374, Florida Statutes (1981); Ch. 16176, 1933 Laws of Florida.

The trial court, in essence, granted a recission remedy in these cases after it determined that a major part of the consideration for the acquisition of appellees' lands was the future enhancement of the value of their remaining lands. This had not occurred because the canal was not built, and therefore, there was a failure of consideration. One fee in these cases was acquired by deed executed under threat of condemnation. The other fees were created by orders of taking.[3] Two easements were held by the Canal Authority: one acquired by deed and one by an order of taking.[4]

[1, 2] All of the fees in these cases were held by the Canal Authority in fee simple, without any condition or reservation. Such fee interests created by an order of taking cannot be collaterally attacked on the ground of failure of consideration unless extrinsic fraud is proved.[5] There is no evidence whatsoever in this record to establish extrinsic fraud. This distinguishes this appeal from *Canal Authority v. Ocala Manufacturing Company*, 365 So.2d 1060 (Fla. 1st DCA 1979),[6] and puts it in line with *Carlor Company, Inc. v. City of Miami*, 62 So.2d 897 (Fla.1953); *Canal Authority v. Harbond, Inc.*, 433 So.2d 1345 (Fla. 5th DCA 1983); and *Langston v. City of Miami Beach*, 242 So.2d 481 (Fla. 3d DCA 1971). Similarly, failure of consideration, absent an affirmative showing of fraud, is not sufficient grounds for setting aside a fully executed and recorded deed.[7] Under these circumstances, the Canal Authority may retain its ownership of the lands acquired in fee simple.

We reach a different result regarding the easements, however. The easements, by the very language of their creation, made their existence limited or conditioned upon use by the Canal Authority for the canal project, now abandoned. The document that conveys an easement to the Canal Authority from Hasty-Greene declares: "TO HAVE AND TO HOLD said rights and easement unto the Grantee and its assigns forever, or *until such time as said property should no longer be required for the purposes of The Cross Florida Barge Canal project. . . .*" (Emphasis supplied). The circuit court order of taking that grants a perpetual easement to the Canal Authority from Ocala Manufacturing states that the easement is "for the purpose of constructing, operating, repairing, or improving the Cross Florida Barge Canal. . . ."

[3, 4] Where a condemning authority only has an easement, and its right to use the property has been lost or the public use has ended, the easement is extinguished, and all of its rights revert to the owner of the fee.[8] The owners of the servient tenements in these cases now hold their lands free from the public easements. No quitclaim deeds or payments to the Canal Authority are required.

[5] We reject appellant's contention that a sum based on current values of the

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[2] 3 Nichols, *Eminent Domain* § 9.33 (3d ed. 1981); C.J.S. *Eminent Domain* § 458 (1965).

[3] The lands acquired in fee simple were those formerly owned by Astor West, Berman, Couse, Gay, Griffitts, Hasty-Greene (by donation), Hodges, Mainer, and Silver Springs Shores.

[4] The lands acquired by easement were those formerly belonging to Hasty-Greene (by donation) and Ocala Manufacturing.

[5] *See Carlor Co., Inc. v. City of Miami*, 62 So.2d 897 (Fla.1953).

[6] *Canal Authority v. Ocala Mfg. Co.*, 365 So.2d 1060 (Fla. 1st DCA 1979), is further distinguishable from the instant case in that it involved the rescission of a contract.

[7] 19 Fla.Jur.2d *Deeds* § 54 (1980); *see Collins v. McKelvain*, 138 Fla. 463, 189 So. 655 (1939); *J.C. Vereen & Sons, Inc. v. City of Miami*, 397 So.2d 979 (Fla. 3d DCA 1981).

[8] 3 Nichols, *supra* note 2, at § 9.36[1]; 30 C.J.S., *supra* note 2, at § 460.

land be returned to the Canal Authority by Ocala Manufacturing. There is little precedent or authority for such a requirement.[9] The Canal Authority had the right to use the easement over the lands, which is what it paid for. Whether it was able to utilize the easement or not makes no difference. Further, there was no showing that Ocala Manufacturing procured the abandonment, or conducted itself unfairly in extinguishing the easement.

Accordingly, the final judgments are reversed and these proceedings are remanded for entry of final judgments consistent with this opinion.

REVERSED AND REMANDED.

COBB and COWART, JJ., concur.

GONPERE CORPORATION, Dora Perera and Old Republic Insurance Company, Appellants,

v.

Pedro REBULL and Candida Rebull, individually, and as husband and wife, Appellees.

Nos. 82-1599, 82-2264.

District Court of Appeal of Florida, Third District.

Oct. 18, 1983.

Rehearing Denied Nov. 8, 1983.

Tenants brought action against building owner and insurer for injuries resulting from conduct of building manager, who shot the tenants and then killed himself. The Circuit Court, Dade County, Richard Yale Feder, J., entered judgment on jury verdict in favor of tenants, and defendants appealed. The District Court of Appeal, Baskin, J., held that: (1) question of whether manager's act was committed within scope of his employment or in furtherance of owner-employer's interest, and question of whether employer could have anticipated manager's conduct, were for jury, and (2) jury verdict rested on competent evidence and would be sustained.

Affirmed.

Barkdull, J., filed a dissenting opinion.

1. Master and Servant ⇐332(2)

In action by tenants against apartment building owner for injuries resulting from act of building manager, question of whether manager's act was committed within scope of his employment or in furtherance of owner-employer's interest was for jury.

2. Master and Servant ⇐332(1)

In action by tenants against apartment building owner for injuries resulting from conduct of building manager, issue concerning whether owner-employer could have expected such conduct on part of the manager was for jury.

3. Master and Servant ⇐330(3)

In action by tenants against apartment building owner for injuries resulting from being shot by building manager, competent evidence, including evidence that shooting occurred when one of the tenants approached manager to discuss eviction letter, supported verdict in favor of tenants under theories of respondent superior and negligent supervision, hiring or retention.

Greene & Cooper and Robyn Greene and Joan M. Bolotin, Mottlau & Wakefield, Miami, for appellants.

Podhurst, Orseck, Parks, Josefsberg, Eaton, Meadow & Olin and Joel Eaton, Rossman & Baumberger, Miami, for appellees.

Before BARKDULL, BASKIN and DANIEL S. PEARSON, JJ.

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[9] Some older cases were split on the question of whether a condemning authority could recover damages paid after a project was abandoned. *See* Annot., 121 A.L.R. 12 (1939). However, the better view is that abandonment, after the fee owner's right to damages have become vested, will not entitle the condemning authority to recover the funds paid to the owners. 30 C.J.S., *supra* note 2, at § 338.

Supreme Court of Florida

Nos. 64,689 through 64,697

JOYCE G. MAINER, etc., et al.,
Petitioners,

vs.

CANAL AUTHORITY OF THE STATE OF
FLORIDA, etc., Respondent.

[April 18, 1985]

OVERTON, J.

This is a petition to review a decision of the Fifth District Court of Appeal reported as *Canal Authority v. Mainer*, 440 So. 2d 1304 (Fla. 5th DCA 1983). These nine consolidated cases were brought by the petitioners to reacquire lands originally taken by the Canal Authority for the construction of the Cross-Florida Barge Canal. The district court held that the Canal Authority could not be required to reconvey land to which it had in good faith acquired fee simple title. We find conflict with *Canal Authority v. Ocala Manufacturing Co.*, 365 So. 2d 1060 (Fla. 1st DCA), *petition dismissed*, 368 So. 2d 1363 (Fla. 1979), concluding that it cannot be harmonized with the instant district court decision.* We disapprove the decision in *Ocala Manufacturing* and hold that, absent fraudulent intent or bad faith at the time of the taking, fee simple title taken by a governmental entity through condemnation, settlement, or donation cannot be collaterally attacked on the basis of a failure or discontinuation of the use originally intended for the land taken.

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*We have jurisdiction. Art. V, § 3(b)(3), Fla. Const.

Exhibit 8

The Canal Authority was formed in 1933 to act as the state entity to assist the federal government in constructing the Cross-Florida Barge Canal. The Canal Authority, in accordance with section 374.071, Florida Statutes (1983), has the authority to acquire rights of way necessary for the construction and operation of the project. The lands in question were acquired in fee simple between 1966 and 1970. How the Canal Authority acquired the respective petitioners' properties is detailed below:

> The property of Joyce G. Mainer was acquired in fee simple through a contested condemnation proceeding by an order of taking entered June 6, 1968.
>
> The property of Walter R. Berman was acquired in fee simple through a contested condemnation proceeding by an order of taking entered April 3, 1970.
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> The property of Francis S. Gay was acquired in fee simple through a contested condemnation proceeding by an order of taking entered June 6, 1968.
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> The property of Silver Springs Shores, Inc., was acquired in fee simple through a contested condemnation proceeding by an order of taking entered June 26, 1969.
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> The property of John H. Couse was acquired in fee simple through a contested condemnation proceeding by an order of taking entered August 15, 1966.
>
> The property of Astor West, Inc., was acquired in fee simple through a contested condemnation proceeding by an order of taking entered July 31, 1970.
>
> The property of James J. Griffitts was acquired in fee simple through a contested condemnation proceeding by an order of taking entered July 31, 1970, the value of the land taken being agreed to before trial.
>
> The property of Kenneth T. Hodges was acquired in fee simple through a deed recorded on August 3, 1967. The closing statement submitted in these proceedings reflects the following statement: "The receipt of $1,583.24 is acknowledged by the undersigned Sellers. The foregoing constitutes a summarized representation of the complete transaction; and no other compensation or concession has been made or promised by either party involved."

> The property of Hasty-Greene Investments, Inc., was acquired in fee simple by deed dated July 18, 1966, in lieu of condemnation for one dollar consideration.

The petitioners filed individual suits to have their lands returned to them upon the grounds that (1) the Canal Authority had represented that the value of their remaining lands would be enhanced by the completion of the canal project; (2) the public purpose for which the lands had been taken had been frustrated; (3) the project had been abandoned; and (4) as a result of the abandonment of the project, there was no enhancement in value of their remaining lands and, consequently, there was a failure of consideration.

Petitioners made no allegations and offered no evidence at trial to establish that they were not properly compensated for either the value of the lands taken or for any damage to the remaining lands as a result of the taking. In addition, there was no evidence presented to establish that the Canal Authority had actually offset any damage to the petitioners' remaining lands with enhancement that would occur by reason of the completion of the project.

The trial court held for the petitioners, finding that the plans for the construction of the canal had been frustrated and abandoned; that the Canal Authority had represented that the value of petitioners' remaining lands would be enhanced by the completion of the project and, because the project had been abandoned, the consideration for the conveyance to the Canal Authority had failed; that it would be inequitable to the public and the petitioners to allow the Canal Authority to continue to hold title to land which it could not devote to the purpose for which it was acquired; and that the use of the fee simple title acquired by the Canal Authority was limited to canal project purposes. The trial court directed the Canal Authority to convey the property to the petitioners in exchange for the return of the purchase price paid for the land by the Canal Authority.

On appeal, the district court reversed, holding that the Canal Authority acquired the property in fee simple without condition or reservation and, in accordance with our decision in Carlor Co. v. City of Miami, 62 So. 2d 897 (Fla.), cert. denied, 346 U.S. 821 (1953), concluded that "fee interests created by an order of taking cannot be collaterally attacked on the ground of failure of consideration unless extrinsic fraud is proved. There is no evidence whatever in this record to establish extrinsic fraud." 440 So. 2d at 1306 (footnote omitted). Further, the court held that "failure of consideration, absent an affirmative showing of fraud, is not sufficient grounds for setting aside a fully executed and recorded deed." Id. (footnote omitted).

The petitioners assert that they were entitled to the enhanced value of their remaining lands and that, as a matter of law, without such enhancement there was a failure of consideration. In effect, petitioners argue that they are entitled to not only the value of the land taken, but also the enhanced value of their remaining lands by reason of the project, even though there was no evidence that there was damage to the remaining lands. Under the law of eminent domain as it exists in this state, the enhancement to remaining lands can only be used by a condemning authority to offset severance damages to remaining lands. See Caspersen v. West Coast Inland Navigation District, 193 So. 2d 65 (Fla. 2d DCA 1967); § 73.071(4), Fla. Stat. (1983); see also Di Virgilio v. State Road Department, 205 So. 2d 317 (Fla. 4th DCA 1967). There is no evidence in the record that, at the time of the taking, any landowner was entitled to severance damages with regard to his remaining lands. In the absence of any showing of severance damages, enhancement is not an issue. We realize that if a condemning authority claimed enhancement to offset damages to the remaining property, and then failed to complete the improvement, the property owner would have a cause of action for additional compensation, but not for reconveyance absent a showing of bad faith at the time of the taking. Central and Southern Florida Flood Control District v.

Wye River Farms, Inc., 297 So. 2d 323 (Fla. 4th DCA 1974); *see also* 27 Am. Jur. 2d *Eminent Domain* § 451 (1966).

The First District Court of Appeal, in its decision in *Ocala Manufacturing*, expressly approved the trial court's determination that the failure to construct a planned improvement for which land had been taken, and the resultant lack of enhancement to remaining lands, required a reconveyancing of the lands taken. In our view, this holding cannot be harmonized with the instant district court decision. The unrefuted facts of *Ocala Manufacturing* establish almost identical issues which were resolved contrary to those presented in the instant case.

We hold, in accordance with the weight of authority, that once land has been acquired in fee simple for public use, either by the exercise of the power of eminent domain or by purchase or donation, the former property owner retains no interest in the land. The public use may thereafter be abandoned or the land may be devoted to a different use without any impairment of the title acquired, absent fraud or bad faith at the time of the conveyance. Our holding in this cause reaffirms our decision in *Carlor*, in which we determined that a former landowner of an island in Biscayne Bay could not set aside the condemnation judgment on the ground that the property had not been utilized for the stated purposes of constructing an airport. In that decision we recognized that any challenge to the good faith taking of the property by the condemning authority for the designated public need must be made in the condemnation proceeding and not by collateral attack. We held that "there is no reversion where the fee simple title is taken and there is either a failure to use or a discontinuance of the use which impelled the taking." 62 So. 2d at 900 (citations omitted). We further stated, "It is elementary that a condemnation judgment or award cannot be collaterally attacked except in cases of fraud or where it is void as for want of jurisdiction." *Id.* (citations omitted).

We also approve the holding of the Third District Court of Appeal in *Langston v. City of Miami Beach*, 242 So. 2d 481 (Fla. 3d DCA 1971), in which that court stated, "[U]pon a completion of the condemnation, the condemning authority occupie[s] the same status as a bona fide purchaser for value." *Id.* at 483 (citing *Chesapeake & Ohio Canal Co. v. Great Falls Power Co.*, 143 Va. 697, 129 S.E. 731 (1925)). Our holding is consistent with other jurisdictions' decisions on the same issue. *See* *Reichelderfer v. Quinn*, 287 U.S. 315 (1932); *Higginson v. United States*, 384 F. 2d 504 (6th Cir. 1967), *cert.* *denied*, 390 U.S. 947 (1968); *Beistline v. City of San Diego*, 256 F.2d 421 (9th Cir.), *cert.* *denied*, 358 U.S. 865 (1958); *O'Hara v. District of Columbia*, 147 F.2d 146 (D.C. Cir. 1944), *cert.* *denied*, 325 U.S. 855 (1945); *United States v. Three Parcels of Land*, 224 F. Supp. 873 (D. Alaska 1963); *United States v. 10.47 Acres of Land*, 218 F. Supp. 730 (D. N.H. 1962); *Nearhos v. City of Mobile*, 257 Ala. 161, 57 So. 2d 819 (1952); *Bottillo v. State*, 53 A.D.2d 975, 386 N.Y.S.2d 475, *appeal* *denied*, 40 N.Y.2d 803, 356 N.E.2d 482 387 N.Y.S.2d 1030 (1976); *Gilbert v. Franklin County Water District*, 520 S.W.2d 503 (Tex. App. 1975).

The petitioners' reliance on *The People v. White*, 11 Barb. 26 (N.Y. App. 1851), is totally misplaced. In *White*, a section of the Erie Canal was constructed on White's land and later abandoned. The court in that case found that the state had not taken fee simple title to the lands in question and determined that the owner had not been fully compensated for the portion of land taken but had received compensation only for the value of the land taken after deducting the benefit to the remaining land resulting from the construction of the canal. Further, we note that petitioner's position has not been followed in New York. In the recent New York decision in *Bottillo v. State*, that court, in rejecting a claim for reconveyance, stated:

> Since there are no allegations in the petition that the Department of Transportation acted illegally, arbitrarily or capriciously in the initial "taking" in 1971 nor that the appropriation was not for

> the stated public purpose, title to the realty properly vested in the State. As long as the original condemnation was in good faith for a public purpose, the condemnor "may subsequently convert it to other uses, or even abandon it entirely, without any impairment of the validity of the estate originally acquired or [any] reversion to the former owners."

53 A.D.2d at 975, 386 N.Y.S.2d at 477 (quoting Fur-Lex Realty, Inc. v. Lindsay, 81 Misc. 2d 904, 905, 367 N.Y.S.2d 388, 390 (N.Y. Sup. Ct. 1975)).

In conclusion, we reaffirm our holding in Carlor and hold that when a condemning authority acquires property in fee simple in good faith for a public purpose, that authority may subsequently convert it to other uses without any impairment of its title or obligation to the original owners. The decision of the district court in the instant case is approved and the decision in Ocala Manufacturing is disapproved.

It is so ordered.

BOYD, C.J., ALDERMAN, McDONALD and EHRLICH, JJ., Concur
SHAW, J., Concurs in result only with an opinion, in which ADKINS, J., Concurs

NOT FINAL UNTIL TIME EXPIRES TO FILE REHEARING MOTION AND, IF FILED, DETERMINED.

SHAW, J., concurring in result only.

The Canal Authority of the State of Florida continues its legal existence with general and special powers to manage the assets of the Cross Florida Barge Canal Project. Ch. 374, Fla. Stat. (Supp. 1984). By enacting chapter 79-167, Laws of Florida, the legislature has effectively halted construction on the canal project and set forth instructions for the disposition of the assets of the canal authority. By its own terms, however, section 16 provides that chapter 79-167 shall not take effect, in pertinent part, until the Cross Florida Barge Canal Project is deauthorized by the United States Congress. The Congress, to date, has refused to deauthorize the canal. Until such time as the project is legally abandoned, it is premature for the Court to assume that the project will be abandoned and to render pronouncements on the disposition of the assets.

ADKINS, J., Concurs

(Nine Consolidated Cases)
Application for Review of the Decision of the District Court of Appeal - Direct Conflict of Decisions

Fifth District - Case Nos. 82-817; 82-818; 82-819;
82-821; 82-823; 82-824;
82-825; 82-826; and 82-827

C. Ray Greene, Jr. of Greene and Greene, Jacksonville, and Charles R. Forman, Ocala, for Joyce G. Mainer, Walter R. Berman, Francis S. Gay and Catherine Duane Gay, Kenneth T. Hodges and Alverna C. Hodges, Silver Springs Shores, Inc., John H. Couse and Barnetta S. Couse, Astor West, Inc., Hasty-Greene Investments, Inc., and James J. Griffitts and Leola H. Griffitts,

Petitioners

Jim Smith, Attorney General and Louis F. Hubener, Assistant Attorney General, Tallahassee,

for Respondent

Lewis F. Murphy of Steel, Hector and Davis, Miami, Amicus Curiae for Florida Power & Light Company; and Joseph W. Little, Gainesville, Amicus Curiae for Florida Defenders of the Environment in Opposition to Relief Sought by Petitioners debtors and leased to the debtor railroad, all of whom became involved in the reorganization. The County Treasurer had sought a preference for back taxes. Although refusing to grant a preference, but realizing that the payment was needed to obtain tax free operation of the property in the future, the court judiciously suggested that the condemnor pay the back taxes and it would be subrogated to any claim of the county against the condemnation proceeds currently being held in escrow.[85.01]

§ 9.35 Change of use.

The cases in which the original use for which the land was taken has been continued and some additional burden imposed have been discussed in the preceding pages. It sometimes becomes expedient to abandon the original use and to substitute a different one.[85.1] Such change may be effected if the proposed use is similar in character to that of the existing use.[86]

[85.01] See *In re* Penn-Central Transp. Co., 383 F Supp 1128 (ED Pa 1974).

[85.1] **Texas** — Gilbert v. Franklin County Water District, 520 SW(2d) 503, in which the court said:

> "The law is clear in Texas that once land has been acquired for public use in fee simple unconditional, either by the exercise of the power of eminent domain or by purchase, the former owners retain no rights in the land, and the public use may be abandoned or the land may be devoted to a different use without any impairment of the estate acquired or any reversion to the former owners. Jackson v. City of Abilene, 281 S.W.2d 767 (Tex. Civ.App. Eastland 1955, writ ref'd n.r.e.)."

However, see:

Connecticut — Hall v. Town of Weston, 357 A(2d) 79, in which the court said:

> "'By exercising the power of eminent domain granted by the act, the plaintiff became bound to devote the property acquired to the purpose for which the legislature has authorized the taking. . . .' *Northeastern Gas Transmission Co. v. Collins*, 138 Conn. 582, 588-589, 87 A.2d 139, 144."

[86] **New Jersey**—Strock v. East Orange, 80 NJL 619, 77 A 1501, aff'd, 82 NJL 543, 81 A 826.

See, however:

California—Barry v. Department of Pub. Works, 199 CA(2d) 359, 18 Cal Rptr 637, in which the court said:

> "We believe, moreover, that the decision in People ex rel. Department of Public Works v. City of Los Angeles, supra, is correct. In that case appellant relied upon a general statute, Code of Civil Procedure, section 1240, subdivision 3, which requires, before diverting property already devoted to one public use from that use to another, a determination that the latter is a more necessary public use. The contention was made that this forbade the taking of any part of

Exhibit 9

Even where the change in use is not similar in character, and there is, in fact, a misuser or diversion, it has been held that only the state may complain.[66.1] Such misuser has not been considered an abandonment of the title or rights acquired by eminent domain for a purpose inconsistent therewith.[66.2]

Griffith Park for highway purposes, absent a determination, presumably judicially, that the state highway was a more necessary public use than the park. It was held in City of Los Angeles, supra, however (179 Cal. App.2d on page 564, 4 Cal.Rptr. on page 535), that Streets and Highways Code section 103.5 (quoted above), being a statute of specific authorization 'controls the former general provision' (C.C.P. sec. 1240, subd. 3, citing Rose v. State, 19 Cal. 2d 713, 123 P.2d 505), and that said section expressly empowers the Department of Public Works to acquire park property for highway purposes whenever the State Highway Commission determines by resolution that such property is necessary therefor.

"It also held, under the authority of People ex rel. Department of Public Works v. Chevalier, 52 Cal.2d 299, 340 P.2d 598, that the recitation of public necessity in the commission's resolution was conclusive and cannot be made a justiciable issue even though fraud, bad faith, or abuse of discretion, may be alleged. (People ex rel. Department of Public Works v. City of Los Angeles, supra, 179 Cal.App.2d at page 568, 4 Cal.Rptr. 531.)

* * * *

"Where the legislature limits the right of diversion of public property to another use by requiring that there be a determination that the new proposed use be a more necessary one but does not repose the right in any designated agency to make that determination, then presumably the task of determination would fall upon the courts since no such power could be implied to exist in the condemning agency any more than in the agency whose property is to be taken. We say 'presumably,' since the question has apparently not been decided. It is not before us and we are not called upon to, and do not, decide it here.

"The reason it is not before us is that the Legislature here *has* specifically designated the State Highway Commission as the arm of sovereignty which shall determine when park property is to be taken for state highway purposes."

[66.1] **Tennessee**—Lea v. Louisville, etc., R. Co., 135 Tenn 560, 188 SW 215.

See, however, *infra*, footnote 82.

[66.2] **Maryland**—Green v. Pennsylvania R. Co., 141 Md 128, 118 A 127.

New Jersey—Bentley v. Newark, 108 NJL 317, 158 A 463; Carroll v. Newark, 108 NJL 323, 158 A 458, 79 ALR 509.

Contra:

Nebraska—Lucas v. Ashland L., M. & P. Co., 92 Neb 550, 138 NW 761.

See also, as to effect of statute:

Kansas—Dillon v. Kansas City, etc., R. Co., 67 Kan 687, 74 P 251.

New York—Fur-Lex Realty, Inc. v. Lindsay, 367 NYS(2d) 388, in which the court said:

"Although one of plaintiff's Fur-Lex's claims herein is that the City's exercise of its power to condemn the lot was unconstitutional, The right of the condemnor to effect such change is not necessarily dependent upon the fact that it acquired a fee interest for the purpose of the existing use.[67] **The owner of the fee, who has received compensation for a perpetual easement in the land, is in no position to require that the public use continue precisely the same, or that it be operated by the same public agent. If the new use is no more onerous than the old, and is substituted for it by the same act which discontinues the old, he is not entitled to any compensation for a change which did not in fact cause damage. If it is more onerous, he is entitled to recover compensation for the increase in the burden only. In both instances, however, the two uses must** be of the same general nature. However, where there has been

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by reason of the fact that the public purpose for which it was taken has never been effectuated, such contention is patently without merit. The rule is well established that where the fee to property is, in good faith, appropriated for a particular public purpose, the municipality may subsequently convert it to other uses, or even abandon it entirely, without any impairment of the validity of the estate originally acquired or reversion to the former owners (Re New York Water Front, 190 N.Y. 350, 83 N.E. 299; Story v. New York Elevated R. Co., 90 N.Y. 122; Brooklyn Park Com'rs v. Armstrong, 45 N.Y. 234; Gen. City Law, sec. 20, subd. 2)."

Texas—Gilbert v. Franklin County Water District, 520 SW(2d) 503. (See footnote 65.1, *supra.*)

See, however:

Missouri—City of St. Louis v. Bedal, 394 SW(2d) 391, in which the court said:

"As to a diversion from park use by the construction of streets and highways thereon (as distinguished from park roads), a distinction is drawn in the cases as to the manner in which the park grounds were acquired by the public. In the case where a park is established by statutory authority, or where a municipality purchases land or condemns land therefor, the uses to which it may be put are much broader than where the land is dedicated by individuals for park purposes. In the former case it is said that the municipality acquires the fee simple title to the land, the use of which may be diverted to other public purposes, subject only to the ultimate control by the legislature. In the latter cases, the construction is made strictly in accordance with the terms of the grant. 39 Am.Jur. Parks, Squares, and Playgrounds, § 21, p. 816; 25 L.R.A.(N.S.), 960. 'It is based upon the theory of a contract between dedicator and public which is binding upon both parties.' Warren v. Mayor of Lyons City, 22 Iowa 351; Carson v. State, 240 Iowa 1178, 38 N.W.2d 168. See also Kirkwood v. City of St. Louis, Mo., 351 S.W.2d 781, 784 [1-3], and cases and authority there cited; School district of Kansas City v. Kansas City, Mo., 382 S.W.2d 688, 692 [5]."

[67] Curran v. Louisville, 83 Ky 628, 7 Ky L 751.

a judicial determination that a prior taking put no restrictions on the nature of the interest taken, a fee simple title will vest in the condemnor and there will be no recovery by the former owner.[67.1]

Applying these principles, the owner of the fee is not entitled to recover at all if a turnpike is changed to a public highway,[68] or a public highway to a turnpike,[69] except that in the latter case the tollhouse is an additional burden.[70] A city street is no greater burden than a country road,[71] or an alley,[72] and a change from a street to a parkway does not entitle the owner of the fee to compensation.[73] It has been held that a railroad is no greater burden than a canal,[74] but

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[67.1] See LaSalle National Bank v. County Board of School Trustees, 23 Ill App(3d) 575, 319 NE(2d) 593 (1974).

[68] **Connecticut**—State v. Maine, 27 Conn 641, 71 Am Dec 89; State v. Suffield, etc., Bridge Co., 81 Conn 56, 70 A 55.

Massachusetts—Murray v. Berkshire County Comrs., 12 Metc 455.

New Hampshire—Pierce v. Somersworth, 10 NH 369.

Pennsylvania—Pittsburgh R. Co. v. Commonwealth, 104 Pa 583.

Ohio — Chagrin Falls Plank Rd. Co. v. Cane, 2 Ohio St 419.

Tennessee—Nolensville v. Baker, 4 Humph 315.

Vermont — Panton Tpke. Co. v. Bishop, 11 Vt 198.

Virginia—Callison v. Hedrick, 15 Gratt 244.

[69] **Indiana**—Stratton v. Elliott, 83 Ind 425; Carter v. Clark, 89 Ind 238.

Maryland—Douglass v. Boonsborough Tpke. Co., 22 Md 219, 85 Am Dec 647.

Missouri—State v. Hannibal, etc., Rd. Co., 138 Mo 332, 39 SW 910, 36 LRA 457.

New Jersey—Wright v. Carter, 27 NJL 76.

New York—Walker v. Caywood, 31 NY 51.

Texas—Jones v. Keith, 37 Tex 399, 14 Am Rep 382.

[70] **Indiana**—Stratton v. Elliott, 83 Ind 425.

New Jersey—Wright v. Carter, 27 NJL 76.

[71] Huddleston v. Eugene, 34 Or 343, 55 P 868, 43 LRA 444.

A conveyance of property by a city to its sinking fund commissioners to be used for the purpose for which it was taken is not an abandonment. Curran v. Louisville, 147 Ky 592, 144 SW 1057.

[72] Fagan v. Chicago, 84 Ill 227.

[73] Kreigh v. Chicago, 86 Ill 407.

[74] **Massachusetts**—Chase v. Sutton Mfg Co., 4 Cush 152.

Ohio—Richards v. Cincinnati, 31 Ohio St 506.

when a railroad is laid out over a former highway,[75] turnpike [76] or park,[77] the owner of the fee must be paid for the difference. When a railroad location [78] or a canal [79] is laid out as a public highway no damage is done. In all the above cases the new use is of the same general nature as the old—public travel. It has been held that a public library may be built in a park for a similar reason.[80]

Contra:

Indiana—Lafayette, etc., R. Co. v. Murdock, 68 Ind 137.

Ohio—Hatch v. Cincinnati, etc., R. Co., 18 Ohio St 92; Vought v. Columbus, etc., R. Co., 58 Ohio St 123, 50 NE 442.

[75] **Massachusetts** — Bullard v. New York, etc., R. Co., 178 Mass 570, 60 NE 380.

Nebraska—Stehr v. Mason City, etc., R. Co., 77 Neb 641, 110 NW 701.

North Carolina—Suffolk, etc., R. Co. v. West End, etc., Imp. Co., 137 NC 330, 49 SE 350, 107 Am St Rep 490.

Oklahoma — Arkansas Valley R. Co. v. Bullen, 31 Okl 36, 119 P 414.

So, also, when a railroad station is constructed in a public square. Porter v. International Bridge Co., 200 NY 234, 93 NE 716, 21 Ann Cas 654.

But when a street is vacated and the right of way given to a street railway, the abutter is not entitled to compensation. Tomlin v. Cedar Rapids, etc., R. Co., 141 Iowa 599, 120 NW 93.

[76] **New York**—Mahon v. New York, etc., R. Co., 24 NY 658.

Pennsylvania — Mifflin v. Harrisburg, etc., R. Co., 16 Pa 182.

Vermont —Brainard v. Missisquoi R. Co., 48 Vt 107

[77] Newton v. Manufacturers' Ry. Co., 115 F 781.

[78] **Massachusetts** — Farwell v. Boston, 180 Mass 433, 62 NE 751.

North Carolina — Brinkley v. Southern R. Co., 135 NC 654, 47 SE 791.

But see:

New York—Heard v. Brooklyn, 60 NY 242.

See also:

Washington — State v. Spokane County Court, 55 Wash 64, 104 P 148, holding that a railroad company could not convey land acquired by condemnation for its own use for railroad purposes to a city to be used for different purposes.

[79] Malone v. Toledo, 28 Ohio St 643.

[80] Laird v. Pittsburgh, 205 Pa 1, 54 A 324, 61 LRA 332.

So, also, a subway entrance. Codman v. Crocker, 203 Mass 146, 89 NE 177, 25 LRA (NS) 980.

The state may authorize the change of waterworks to a park as a use no more burdensome. Torrence v. Charlotte, 163 NC 562, 80 SE 53.

But the public easement is lost by the change of a cemetery to a park. Campbell v. Kansas City, 102 Mo 326, 13 SW 897, 10 LRA 593.

Missouri—School Dist. of Kansas [illegible]

To establish this immunity from liability the new use must be imposed by the same act which discontinues the old; for, if the public easement is discontinued or abandoned, the land reverts to the owner of the fee free of the easement, and a new public use cannot be subsequently imposed upon it without paying the owner full compensation.[81] The imposition of a new easement of a different nature from the old one, and wholly inconsistent with it, amounts to an abandonment of the old easement, and the owner of the fee is entitled to compensation as if his land was unencumbered,[82] and the same rule applies when the new use is a private one.[83]

§ 9.36 Reversion.

[1] Discontinuance of easement.

It is well settled that when an easement has been taken by eminent domain for the public use or has been acquired by purchase, prescription or dedication, as is usually the case when a location is established for a highway, railroad or canal, or for flowage by a mill, or for any other purpose which does not necessarily require the exclusive occupation of the soil,[84] if the public use is subsequently discontinued or abandoned, the public easement is extinguished, and the possession of the land reverts to the owner of the fee free from any rights in the public.[85]

(Text continued on page 9-116)

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[81] **United States**—Isley v. Bogart, 338 F(2d) 33 (expressing the rule in Kansas).

Indiana—Miller v. Cincinnati, etc., R. Co., 43 Ind App 540, 88 NE 102.

Iowa—Remey v. Iowa Central R. Co., 116 Iowa 133, 89 NW 218.

Minnesota—Albert Lea v. Nielson, 80 Minn 101, 82 NW 1104, 81 Am St Rep 242.

New York—Heard v. Brooklyn, 60 NY 242.

Pennsylvania—Pittsburgh, etc., R. Co. v. Bruch, 102 Pa 23.

[82] **United States**—Newton v. Manufacturers' R. Co., 113 F 751.

North Carolina—Suffolk, etc., R. Co. v. West End, etc., Imp. Co., 137 NC 330, 49 SE 350, 107 Am St Rep 490.

Ohio—Hatch v. Cincinnati, etc., R. Co., 18 Ohio St 92.

[83] **Nebraska**—Lucas v. Ashland Light, etc., Co., 92 Neb 550, 138 NW 761.

New Jersey—Paterson v. Kearny, 84 NJL 456, 87 A 103.

Washington—Neitzel v. Spokane Int'l R. Co., 65 Wash 100, 117 P 864, 36 LRA (NS) 522.

[84] *Supra*, § 9.2 and *infra*, §§ 10.1, 11.1, 11.201, 11.202, 11.203, 11.205, 11.207.

[85] **United States**—Barclay v. Howell [illegible]

[illegible]

Mr. **Roe.** Our next group is distinguished representatives representing labor in the area; Mr. John Bowdon who is the President of the Northeast Florida Building and Construction Trades Union; we have Mr. John Bryan, president of the Northeast Florida Central Labor Council—I guess that is the two. Is Mr. Bowdon or Mr. Bryan here?

Is Mr. Bowdon here?

Mr. **Bryan.** I have not seen him, sir.

Mr. **Roe.** All right. Therefore, we recognize Mr. Bryan, president of the Northeast Florida Central Labor Council. We want to welcome you to our committee, Mr. Bryan, you may go ahead with your testimony.

TESTIMONY OF JOHN BRYAN, PRESIDENT, NORTHEAST FLORIDA CENTRAL LABOR COUNCIL AND PRESIDENT, COMMUNICATIONS WORKERS OF AMERICA, JACKSONVILLE, FL

Mr. **Bryan.** Thank you, Mr. Chairman. My name is John Bryan, I am president of the Northeast Florida Central Labor Council which represents 35,000 AFL-CIO members in five northeastern counties in the State of Florida.

The council appreciates the opportunity to testify in opposition to the deauthorization of the Cross-Florida Barge Canal project. We strongly believe that the deauthorization of the canal is neither in the best interest of Floridians nor the Nation as a whole and we ask you to take our views into serious consideration during your deliberations on this subject.

North Florida Central Labor Council remains convinced that there is a substantial merit to the project. Cross-Florida Barge Canal will provide to the State of Florida and to this country in general, a multitude of benefits, not the least of which are jobs and a better and more efficient water transportation system.

When completed, the canal would be one of the most essential and beneficial navigation facilities in the entire domestic navigation system. It will connect the Atlanta Intracoastal Waterway with the gulf Intracoastal Waterway and the entire inland river navigation system; thus facilitating and expanding the low-cost and energy-efficient water transport of bulk commodities.

The Cross-Florida Barge Canal will enable domestic marine transportation industry to provide faster, more efficient and less costly service and will provide savings to shippers and consumers alike.

While the economy has improved over the past several years, significant pockets of unemployment remain a problem. Past studies indicate that resumption of the project would provide employment for thousands of workers during the projected 7 to 8 years it would take to finish construction of the canal.

Moreover, the North Florida Central Labor Council firmly believes that once completed, the canal as an essential viaduct of trade will attract substantial industry to the areas along the canal and generate thousands of new jobs.

Completion of the canal would not only enhance the domestic marine transportation industry's ability to provide efficient and less costly service to Florida shippers, but will also provide substantial savings to the State's citizens. These economies will be realized in many ways, not the least of which will be increased use of gulf coast produced petroleum as well as coal from the Midwest. Gulf petroleum products could reach markets on the Atlantic coast faster and more efficiently than imported oil.

Consumers have increasingly felt the pinch of inflation in the cost of imported energy products and would benefit from the use of this domestically produced energy.

We are also convinced that more and more powerplants along the east coast will continue to convert from petroleum to coal consumption. This conversion could easily be facilitated through the use of abundant Midwest coal. As these conversions take place, the importance of navigational facilities like the Cross-Florida Barge Canal will increase perceptively. The canal linking the Atlantic coast with the gulf and river navigation systems will be the natural route for the transportation of these essential energy resources.

Another point we would like to address is the issue of modal competition. There is some likelihood that the Congress will approve the merger of Conrail and Norfolk Southern Railroad. This merger, like several others which have recently taken place, with further strengthen the monopoly power of railroads with respect to rail-water competition and coordination. These mergers may very well help to exploit captive shippers and further undermine competition. We believe competition between rail and water carriers is in the public interest. In fact, where water carriers compete with railroads, the result has been lower transportation costs to shippers and ultimately for consumers.

In 1979, as this subcommittee may remember, the railroads expended considerable effort to stop the Cross-Florida Barge Canal from becoming a reality. When the railroads felt quite sure the issue was all but dead, in a market that was exclusively theirs, they raised coal rates an exorbitant 22 percent.

One last point we would like to address is that of environmental impact. During congressional consideration of the canal in the 1970's, there were many in the Congress who felt that the canal should be deauthorized because of purported environmental damage. Millions of dollars were spent by both sides to study this issue. The results from both camps indicated that of the environmental impacts reasonably expected, none were so adverse as to recommend termination.

The North Florida Central Labor Council is concerned about protecting the environment. We continue to believe, however, that the project will bring no ecological harm of any consequences to the State of Florida.

Finally, the council believes that the benefits to the State of Florida and consumers in general far outweigh the arguments of the canal's opponents. The Cross-Florida Barge Canal will further stimulate the economy by generating jobs in construction and supporting industries. It will provide alternative transportation for moving our coal, petroleum products and other bulk commodities to east coast markets, will stimulate competition for the railroads whose increasing stranglehold put shippers at their mercy, and will result in no adverse effect on the Florida environment.

For the foregoing reasons, we urge this subcommittee to reject any attempt to deauthorize the Cross-Florida Barge Canal and instead urge that the Congress approve the necessary appropriation measures to resume construction of this important facilities. I thank you.

Mr. **Roe**. I thank the gentleman for his testimony.

The gentleman from Minnesota.

Mr. **Stangeland**. I have no questions, Mr. Chairman, and then Mr. Bryan.

Mr. **Roe**. The gentleman from Florida.

Mr. **Shaw**. No questions.

Mr. **Roe**. The gentleman from Florida.

Mr. **Chappell**. Mr. Bryan, would you list again those you represent?

Mr. **Bryan**. The North Florida Central Labor Council represents approximately 37,000 AFL-CIO members in the five county northeastern tier of the State.

Mr. **Chappell**. Thank you, sir.

Mr. **Roe**. Thank you very much for your testimony this morning, it has been helpful to us, and we appreciate you being with us.

Mr. **Chappell**. Were you speaking for the Seafarers too, Mr. Bryan?

Mr. **Bryan**. Yes, sir.

Mr. **Chappell**. I wanted to be sure we got that on the record. You are speaking for the Seafarers' Union?

Mr. **Bryan**. Yes, sir, all AFL-CIO.

Mr. **Chappell**. Thank you.

Mr. **Roe**. All right.

We now have representing a number of organizations here, Mr. Tom Cavanaugh, president of Florida's Silver Springs Organization; Mr. Henry Fishking—Dr. Henry Fishkind, president of the M.G. Lewis Econometrics. Then we have representing the Ocala/Marion County Chamber of Commerce, Mr. Bruce Kaster, Mr. John McKeever and Mr. Zandy Collins. And we have Mr. Henry Colson, director of the Marine Division, Jacksonville Port Authority and Mr. Lance Ringhaver, General Contractors Association.

Is Mr. Roberts here by the way? Does Mr. Roberts want to testify with this grouping? All right. Let us see where we are. Is Mr. Cavanaugh here?

Voice. Mr. Chairman, Mr. Cavanaugh was required to return to Ocala and asked that his written statement be submitted for the record.

Mr. **Roe**. With no objection, so ordered at this point.

[The statement of Mr. Cavanaugh follows:]

STATEMENT OF THOMAS E. CAVANAUGH, PRESIDENT, FLORIDA LEISURE ATTRACTIONS, INC.

Chairman Roe and members of the committee, Silver Springs, Inc. is located near Ocala in Marion County. We have been in the business of touring guests over the magnificent silver run for over a hundred years. Silver Springs has been designated a national landmark. Our position with regards to the Cross Florida Barge Canal has not changed over the years.

In 1976, as a company, we wrote to then Governor of Florida, Reubin Askew, and the members of his cabinet, about our concern of the environmental impact that the completion of the barge canal would mean to Silver Springs.

Again in July 1983, we wrote to Governor Graham and the cabinet requesting the deauthorization of the barge canal and supporting the then pending resolution offered by the Honorable Jim Smith, Attorney General of Florida.

Our position has not changed and we still are in support of deauthorization of the canal. Our concern in this matter is public record. To continue with the Cross Florida Barge Canal, in our opinion, shows a complete disregard of the possible pollution threats to one of the most spectacular natural features in the United States—Silver Springs.

Mr. ROE. Next on my list is Dr. Fishkind.

TESTIMONY OF DR. HENRY H. FISHKIND, PRESIDENT, M.G. LEWIS ECONOMETRICS, ZANDY COLLINS, JOHN McKEEVER, BRUCE KASTER OF OCALA/MARION COUNTY CHAMBER OF COMMERCE AND LANCE RINGHAVER, GENERAL CONTRACTORS ASSOCIATION

Dr. FISHKIND. Thank you very much. I have some prepared testimony I would like to give to you. It has some graphs and charts on it that I would like to use.

Mr. ROE. Let me suggest again that all the testimony that is being submitted formally will be included in the record in full and in order for us to conclude our work today, it would be helpful to summarize and then get to your key points. Otherwise, we will lose the time.

Dr. FISHKIND. Mr. Chairman, I will be as brief as I can be, no more than 5 minutes.

In with my prepared testimony there is a copy of a paper that our firm did on infrastructure—you asked about whether people were concerned about water resources and there is a piece in there for you in that regard.

Briefly, I am an economist and investment banker. I think you need to know that so you understand both the position I come from and the biases that I carry with me. Every day in my job, I am involved with analyzing large-scale public investment projects. Our firm financed over $2 billion of public works projects in the State of Florida over the last 12 months. My job is to look at these projects; water systems, sewer systems, roads, airports, things not asimilar to a barge canal, and to determine whether the revenues that will be generated will exceed the cost and can carry its own payments.

Prior to that I was on the faculty of the University of Florida for 10 years and have been involved in looking at this barge canal for approximately 10 years.

Briefly from my perspective as an economist and investment banker, this project—looking at this project, there is really no economic justification for completing it, in my judgment. We are looking at an expenditure of public money of well over $500 million to complete it, and I think under any reasonable set of assumptions, it would be impossible to generate that level of strictly economic benefits on the canal, based on the record and the data we have available and based on any reasonable prospect of what kinds of benefits could be generated from this new study.

Let me briefly lead you through that analysis. 1977 was the latest study we have and it is an ongoing study today. The benefits that were generated and analyzed from that study relate first to transportation, then to recreation. There were a number of problems with the 1977 study that in my judgment overstate the benefits to transportation in a number of ways.

As briefly as I can be, there are two classes of benefits that are shown in the study by A.T. Carney, who was the consultant at that time. One related to attracting existing movements to this canal, and the other related to inducements—I am a forecaster, that is what I do for a living, we take money market positions every day. It is hard enough to simply forecast the change of an existing movement. It is nearly impossible to forecast an inducement. But I will get to that when we discuss coal in just a minute.

So I would suggest that at least well over 40 percent of the moves that the A.T. Carney Co. identified for the canal were induced movements, not even existing movements. The existing movement mode changes they estimated that any benefit would occur at 50 percent of a chance that that existing move went through the canal. That was counted as the total benefit.

Regardless of those factors, there were some more pressing concerns in terms of measuring benefits. The benefits to transportation are not measured in a true economic fashion. I understand that the corps has to work within the guidelines provided by Congress, and they did so. I do not wish to imply otherwise. But it does not make economic sense. The corps methodology revolves around comparing one transport rate to another published transport rate; a barge versus a train. That is not the way a shipper looks at it. A shipper takes into account transloading costs, a shipper takes into account if he can negotiate below published rates for unit trains. These things are not reflected in the benefit estimates to transportation that we have here.

Recreation benefits; there was some discussion by Dr. Kaufmann of that. Let me point out what I think is the most salient point. According to the corps study in 1977, 70 percent of the recreational benefits that the canal would provide are provided by the existing structures. In other words, we do not need to complete the canal to get 70 percent of the benefits that are ascribed to the canal, they already exist. And the real question is do you spend an additional $500 million to complete the canal—what benefits do you get from that $500 million? That is really the relevant economic comparison. You already have 70 percent of the total benefits today, from money you have expended, and that was the discussion today about Rodman Pool and the other benefits that are derived, but there is very little incremental benefit, and I think that is what we need to focus on.

Finally, the discount rate. While the legal discount rate may be 2⅞ percent, because that is the rate at which the canal—the numbers were worked in 1948, it clearly does not make any economic sense. This is a long-term project, it would be financed with long-term bonds, as most other municipal public works-type projects and in essence that would be the economic effect. The Government bond rate today is in excess of 10 percent.

Let me show you the implications of these various assumptions and what I think is a reasonable set of assumptions. If you will move to the back page, in figure 1 at the top, I have listed a series of benefit-cost ratios. The first tall striped bar on the left is the benefit-cost ratio that was included in the corps 1977 study. You see it is just above 1. If we change the discount rate, walk it across the 6⅜, 6⅞, or 10 percent, the left-hand bar on each of those shows you what happens to the benefit-cost ratio as you increase the discount rate, as you look at the true cost of borrowing the funds.

Additionally, if you look at figure 2, I have given you the distribution of the benefits reported in the 1977 study. This is not my distribution, this is the 1977 corps study. If induced moved in fact do not come to fruition, if the recreational benefits are in fact overstated because they included 100 percent of the recreational benefits to completing the canal when really only 30 percent could be ascribed; you get the smaller box.

What I am trying to communicate is that under any reasonable set of assumptions, according to this data available from the 1977 study, the benefit-cost ratio is much less than 1. It just does not generate the kind of economic benefits required for this kind of expenditure.

Now let me move quickly on because I do not want to waste your time, to what has gone on since 1977.

Since 1977, the corps has been asked to look for additional benefits, to complete the studies as Mr. Chappell correctly points out. What kinds of benefits are they looking for? First, area redevelopment benefits. Well, area redevelopment—it is my understanding that this component has been dropped by the corps because there are no areas in the canal region that are eligible for such benefits.

What about regional economic benefits? There is a lot of talk bandied about here and in the literature on the canal about jobs created. I do not want to read the whole passage, but according to Meta Systems, which is the consultant for that part of the study—their conclusion was yes; there will be some regional economic benefits for the Port of Jacksonville, sir, and perhaps for Palatka; but that those benefits would be very small. The job creation from the canal would likely be minimal. That is the Meta study's conclusion and I concur with that. I have listed the exact paragraphs from the Meta study, so if you want to read it for yourself, you can see quite clearly that Meta found very few economic benefits. I wish that was not the case, but this is $500 million and it really does not generate any economic benefits. There are many projects that could generate a lot more economic benefits if that was your goal.

Finally, let me speak to coal. A lot of talk about coal. There are three utilities now operating that can conceivably use coal. There is the Seminole Electric Cooperative plant here in Palatka; the JEA Florida Power & Light, St. Johns River power; and we have the FPL Sanford station. I have been an economic consultant for JEA, for Florida Power & Light, I helped to site that plant up in the St. Johns River power park, I am very familiar with it. I worked on the Sanford plant with Florida Power & Light.

The point is that each of these facilities already has found its source of coal, already has made long-term contractual commitments, purchased equipment, opened up mines. It is not that these things cannot be changed, but they would be changed at very great cost. The probability of substantial moves going through the canal of coal, in my judgment, is very, very small indeed.

So as I stand back from it, I can see very few economic benefits for a large economic cost. The cost is real, the cost is relatively well known. The benefits are out in the future, they are hazy, they are ill defined, and I do not think they are in sufficient quantity to finance this project.

My conclusion as an investment banker is if you were a municipality or a group of municipalities in the State of Florida and you brought this project to us and you said to us could this be financed, my answer would be no; the revenues are too small, it is not a good project.

Mr. Roe. Mr. Collins.

Mr. Collins. Yes; thank you very much, sir, and we appreciate you all coming down here and handling this debate for us.

I am representing the Ocala/Marion County Chamber of Commerce. Since September 1976, the position of the Ocala/Marion County Chamber of Commerce has been one of opposition to completion of the Cross-Florida Barge Canal. This position was taken after exhaustive study and after hearing testimony from the proponents for and opponents of completion.

The chamber's Environmental Affairs Committee recommended to the board of directors that they go on record opposing completion after months of environmental and economic studies and considerations. As late as August 1983, this position was reconfirmed.

As president of the Ocala/Marion County Chamber of Commerce, I have been authorized to again express our opposition to completion because we feel the project is, first, environmentally unsound; second, economically unfeasible; and third, would result in the loss of a considerable portion of Marion County's Oklawaha River basin, which is one of our most scenic and valuable natural resources.

Thank you.

Mr. Roe. Mr. McKeever.

Mr. McKeever. Mr. Chairman, my name is John McKeever. I served for 10 years as director of the Ocala/Marion County Chamber of Commerce, I was president of that organization in 1978 and perhaps most relevant to our remarks today, I served in 1978 and 1979 as chairman of the Canal Authority of the State of Florida. I think any of the remarks that I make will be from a background of familiarity with the environmental, economic, legal, and political issues with which you must deal today.

I appear today to ask that you disconnect the artificial life-support system that has kept the brainless barge canal alive now for 15 years. [Applause.]

In urging you to do so, I recognize that I take a position contrary to that of Representative Bennett and my good friend Representative Chappell, and I have nothing but the greatest admiration for the skills with which they have tended the canal in its declining years, but I believe the time has come, given the national emphasis on debt reduction and on fairness, that we be fair to them and relieve them of the burden that has estranged them from the majority of their colleagues in the House and in the Senate, from the executive and legislative branches of the State of Florida, and from every administration, Democrat or Republican, since 1971. Fairness I believe to Mr. Chappell requires that he be relieved of the burden of carrying forward with a project which, whatever its original justification in 1942, as a means of avoiding submarine warfare, as

Governor Bryant so eloquently described, no longer can be justified.

I will not attempt, given the array of expertise, genuine expertise, that you have heard today, to comment at any length upon any of the economic or environmental issues. I think that the fact that the corps' best effort in the 1977 restudy, using a 2⅞-percent discount rate, could not generate a positive cost-benefit ratio is the most eloquent testimony one can possibly bring as to the economic benefit of this canal. It is negative.

As respects the environmental aspects of the canal and environmental arguments, obviously no one would attempt to follow Dr. Kaufmann and discuss the ecology and pretend any expertise. There are some points however I think I can make as a resident of Marion County, whose children live in Marion County, whose livelihood depends on the water supply of Marion County. We need not really look to Dr. Kaufmann's expertise, we can look to the corps' restudy report, in which it is admitted that the problems of porosity and leakage into the aquifer are there.

The corps suggests that the possibility of occurrences of such leakage of the aquifer are not uniform and must be anticipated and dealt with as they occur. It is not great comfort to those of us who live in the Summit Reach. They concede that accidental spills of toxic substances in the canal can never be eliminated, but the corps takes some comfort that the only reach of the canal where this would be a significant problem is the Summit Reach. That is where we live, that is where we make our livelihood, that is where our children live.

The corps also takes comfort apparently in that the major danger is merely ground water pollution; that is what we drink, that is what we bathe in, that is what really fuels the economy of north central Florida. Without water, we are nothing.

You can understand, I hope, that the 100,000 people who now live in Marion County are less sanguine than the corps with respect to the problem of porosity and leakage and ground water pollution, as would be the 250,000 people that are estimated to live in Marion County by the year 2000. While it may not—it is an exaggeration to describe the Cross-Florida Barge Canal as a potential Love Canal, it is certainly a canal we do not love—and we do not want.

Finally, Mr. Chairman, I would like to address remarks the Chair made earlier. I believe that however discoursive and rambling some of their testimony may have been, that we really are discussing water resources. I think our friends from the Port of Jacksonville view the Summit Reach as an aquatic highway which will flow and give the Port of Jacksonville both an Atlantic and a gulf port.

To them the water resource is a transportation resource. To those of us who live in the Summit Reach, we view it quite differently. We view it as that which we drink, that which is the center of our economy, that without which we cannot live.

In each instance, we are talking about a water resource. We view it as a life-sustaining resource to us, they view it as a means of enhancing their economic position. Those of us who live in the

Summit Reach urge that you deauthorize the Cross-Florida Barge Canal. [Applause.]

Mr. **Kaster**. Mr. Chairman, I am Bruce Kaster from Marion County. I have submitted written comments and so I will make my comments here very brief not only to defer to the committee, but Mr. McKeever is a very hard act to follow.

I would like to say, Mr. Chairman, that I share the previous speakers' admiration for the committee in their efforts to come down here and look at our problem and I specifically admire you, Mr. Chairman, and I had to sit in a somewhat similar position. You heard the president of the chamber talk about many months of study, it was actually several years that I was chairman of the Environmental Affairs Committee of the Chamber of Commerce of Marion County, and I had to—did not have to, I had the pleasure of listening to testimony from numerous witnesses for and against the canal and I gained some knowledge during that process, which I would like to bring to bear today.

Let me say that my knowledge of this particular problem preexisted Marion County. My family is originally from Daytona and they sent me to school in Virginia where I went to Virginia Polytechnic Institute. In the late sixties while I was there, engineering professors had kind of a standard joke about cutting the fresh water supply of Florida with the Cross-Florida Barge Canal. At that point, I really did not appreciate the significance of it, but it brought it to my attention.

When I later moved to Ocala after graduating from law school, I was shocked to learn that the canal was still in existence. I then went to Mr. Chappell's office and he very graciously received me. We had a nice long conversation about the canal, I posed some questions to him that concerned me and it turned out concerned many others. I did not get what I thought were satisfactory answers to my questions, although I understood his position.

So I looked into it further, got some information from FDE and other sources, joined the chamber, was able to get a considerable amount of information through the efforts of the members of the Chamber of Commerce and the cooperation of various political entities, labor union groups, environmental groups, and came to the conclusion that you have heard very eloquently presented today by the FDE spokesman, Dr. Kaufmann.

I have a kind of special place, I guess, in my heart for this part of the Oklawaha River basin. I am a member of the Oklawaha Basin Board of the St. Johns Water Management District, so I have a responsibility. But in addition to that responsibility, one of my earliest memories of things I have done in my life was to come to the Silver River with my grandfather before he died. And the impression that the Silver River made on me is the same impression I am sure it has made on countless thousands of other people.

I am not here to try and give you any scientific information or engineering data or economic data. I am here to state a position that I really feel has not been stated perhaps strongly enough today, and that is to save this river for its beauty. That does not make much difference to people who care only about economics, but you saw the river. I have seen it and most people in Marion County have seen it, and one reason we have such strong feeling is not economy, it is not the ecology; those things are important, but it is the river itself, it is unique.

The Silver River and the portion of the Oklawaha that remains is one of the most beautiful rivers in the State of Florida and I submit in the country. And for no other reason than its beauty, we should strive to save it, maintain it and not flood that river and drown it to death.

Thank you, Mr. Chairman.

Mr. ROE. Mr. Ringhaver.

Mr. RINGHAVER. I thank the Chairman. My name is Lance Ringhaver and I am from Jacksonville, FL. However, I would like to be on the record as being concerned about Ocala and Marion County, having a branch office there and employing some 80 people from that area.

But today I am representing the Associated General Contractors of northeast Florida. We feel that all the environmental issues have already been addressed by the corps and the courts. Previous studies and testimony have been presented to Congress and is on the record.

Environmentally our Association believes we have the existing know-how and technology to build a safe canal and therefore, the real issue at hand today is whether or not the remaining expenditure is economical. Is it a reasonable cost-benefit ratio? This is the crux of the issue today.

If you will look back, the Tennessee-Tombigbee was built on a very marginal ratio itself and it is doing a very good job today.

We need to proceed with the study to determine whether or not the Cross-Florida Barge Canal is feasible to build. The north, Florida area has not had the growth as other areas in the State. If feasible, we feel the canal would be a great asset to north Florida and the area in which we are meeting in today.

Today, some of you have expressed a concern for the property and construction to date. It has certainly already proven to be a tremendous recreational benefit and without a doubt, if completed, would provide even more. Deauthorization will only make a bigger boondoggle and cost us millions more dollars in defending it.

In conclusion, gentlemen, we hope you will not make a decision until after the corps study is completed and you have all the current facts. And whatever you do, do not waste the $70 million which has already been spent.

Thank you.

Mr. ROE. I thank the gentleman.

Are there questions? The gentleman from Minnesota.

Mr. STANGELAND. Mr. Fishkind—Dr. Fishkind, did someone employ the Lewis Econometrics to do the analysis of the project?

Dr. FISHKIND. No, sir, it is a donation that stems from my involvement looking at the canal 10 years ago when I was with the University.

Mr. STANGELAND. I have no questions, Mr. Chairman. I think they have expressed themselves extremely well.

Mr. ROE. The gentleman from Florida.

Mr. SHAW. No questions.

Mr. ROE. The gentleman from Florida.

Mr. **Chappell.** Just one question. Mr. Fishkind, what is the nature of your business?

Dr. **Fishkind.** I am an investment banker.

Mr. **Chappell.** Would deauthorization be more or less beneficial to an investment banker and interest thereabouts in this area?

Dr. **Fishkind.** Would not make any difference.

Mr. **Chappell.** Would not make any difference at all?

Dr. **Fishkind.** Not to us in terms of our business.

Mr. **Chappell.** Would not make a bit of difference.

Dr. **Fishkind.** No.

Mr. **Chappell.** Thank you.

Mr. **Roe.** Any further questions?

[No response.]

Mr. **Roe.** We want to thank the witnesses very much for their time and their indulgence in joining with us today and we appreciate your testimony.

[The statements of Dr. Henry H. Fishkind, John McKeever, and Bruce Kester, follow:]

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MEMORANDUM

TO: Committee on Public Works and Transportation
U.S. House of Representatives

FROM: Henry H. Fishkind, Ph.D.
M.G. Lewis Econometrics, Inc.

SUBJECT: Economics of the Cross Florida Barge Canal

DATE: June 10, 1985

1.0 CONCLUSIONS

There is no economic justification for completing the Cross Florida Barge Canal. Under any reasonable set of assumptions, the benefits from completing The Canal are well below the costs involved. In my professional opinion, the best course of action for this Committee would be to deauthorized The Canal.

2.0 THE 1977 RESTUDY - A BRIEF REVIEW

2.1 Benefits

Transportation Benefits
The 1977 Restudy Reports identified two classes of transportation benefits: (1) existing moves which would be attracted to The Canal and (2) induced moves which do not now exist but might come into being if The Canal existed.

I have a number of problems with the analysis developed by the Corps consultant on this issue, A.T. Kearney. First, it is difficult enough to estimate whether existing traffic will be diverted to the waterway. Estimates of induced future moves are, at best, highly speculative and require assumptions about plant locations, model choices, demand elasticities, availability of transfer facilities and other similar matters. More than 40 percent of the total benefits ascribed to The Canal stem from the forecast of induced moves.

Second, the transportation benefits are calculated in a manner which makes no economic sense. Benefits are calculated as the difference between published transportation rates for alternative modes compared to The Canal rate. While this may be required by Federal laws and guidelines, it ignores the actual economics of the situation in two ways. First, the relevant comparison is the total transportation cost of the move, not just the portion which could go through a canal. Shippers do not ignore transloading costs and time differences even if the Corps does when making its analysis. Second, shippers can negotiate lower rates than those published for large movements. The use of unit trains is an important case in point. The effect of this problem is to *bias the estimated benefits from The Canal*.

Third, The 1977 Study confuses gross benefits with net benefits. Any benefits claimed in a cost-benefit study are suppose to be net benefits to the economy. Yet the 1977 Study estimate of transportation benefits ignores the fact that an existing move which might be attracted to The Canal would be attracted from some other mode of transportation. The cost savings and economic stimulus from The Canal must be netted against the losses to the competing mode. This problem was identified in the 1977 Restudy by one of the Corps' contractors, Meta Systems (Appendix B, p. B-1), and I pointed it out to the Corps during the review process. By calculating benefits as gross benefits, *the benefits are overstated*.

Recreational Benefits

Benefits from recreation, hunting and fishing account for nearly 30 percent of the benefits of The Canal according to the 1977 Restudy. *These benefits are grossly overstated since they do not relate to completing The Canal and are currently available anyway*. The Restudy notes that 70-75 percent of the alleged recreation benefits are in fact derived from already completed project works (p. 48). Such benefits have no place in a cost-benefit analysis concerned with whether or not the project should be completed. They are available anyway.

As for the 25-30 percent of the remaining recreational benefits, they are at best speculative. Consider the source of the preponderance of the remaining net benefits, spoil islands in the Gulf of Mexico. These would be created as The Canal is constructed and are claimed to provide large amounts of beach-type recreation. The only problem is that these spoil islands are only accessible by boat! Clearly, such areas will not be heavily used and, therefore, can not generated large recreational benefits.

Finally, *the recreational benefits claimed are gross benefits not net benefits*. The Corps' recreational contractor on The Restudy (the U.S. Bureau of Outdoor Recreation) and the Florida State Recreation Survey both pointed out that there is a surplus of lakes available for recreation in the canal area -- over 200,000 acres within 30 miles of Rodman Reservoir. So, recreational uses of Canal facilities would likely be transfers from other facilities. Appendix B of the Report notes (p. B-1), "However, the issue of recreational alternatives may be a moot point since the BOR report assumes that sufficient lake type recreation is currently available in the region of Florida through which the canal would pass."

2.2 Costs

While I am not an engineer, it is clear that the 1977 Report has understated the costs for completing The Canal. There are two major areas of costs which have been ignored: (1) cost over runs and (2) environmental costs. These must be considered in a proper cost-benefit analysis for this project. The Corps has a history of cost over runs on its construction projects. For example, the Tenn-Tom Waterway cost more than 7 times its original estimate to complete. Cost over runs of 80-125 percent are common. Yet the cost estimates provide for no contingencies.

Second, the cost estimates ignore the costs of environmental degradation from the construction and operation of The Canal. These include, but are not limited to, flooding the Oklawaha River Valley, timber losses, aquatic weed control costs, and risks to the Floridan Aquifer. The costs here are substantial and can not be ignored.

2.3 Discount Rate

In its 1977 Study the Corps concluded that completing The Canal was a marginal proposition. This conclusion is based not only on the "best case" set of assumptions used by the Corps, but it requires the use of an absurdly low discount rate of 2 7/8 percent. At any higher rate, or with any more reasonable set of assumptions, completion of the Canal can not be justified.

Canal proponents argue that 2 7/8 percent is the "legal" discount rate because this was the rate in effect when The Canal was authorized in 1942. The so-called "legal" rate has yet to be determined by the courts. From the perspective of economics, a 2 7/8 percent discount rate reflects either ignorance or disdain for accepted economic principles. The current rate for long-term U.S. government bonds is above 10 percent, and this is the appropriate rate to use for a riskless project financed through government funds.

However, The Canal is not a riskless proposition. To justify using the federal government long-term borrowing rate in the analysis, one must be able to demonstrate that the costs and benefits are estimated so conservatively that thee is virtually certainty the estimates will be realized. In other words, one must be as confident in the benefit and cost estimates as one is in the ability of the federal government to redeem its long-term bonds. The Canal estimates warrant no such confidence.

2.4 Conclusions

Figure 1 demonstrates the effect on the calculated benefit-cost ratios (BCR) from altering the discount rate. Notice that even with the 2 7/8 percent rate and the optimistic Corps assumptions, the BCR is just over 1. More realistic discount rates drive the BCR well below 1 even with the Corps optimistic assumptions.

Figure 2 displays the distribution of estimated benefits as per the 1977 Study. As noted above, there is no justification for including recreational benefits in an estimated of net benefits from completing The Canal. Removing these benefits drives the BCR way down (see Figure 1, BCR no Recr.).

A final scenario contained in Figure 1 illustrates the impact of a more realistic set of assumptions (BCR HP). Here I have removed both the recreational benefits and the benefits ascribed to induced transportation moves. Under any reasonable set of assumptions, there is no economic justification for completing The Canal.

3.0 DEVELOPMENTS SINCE 1977

1985 Restudy

The Corps is currently conducting another restudy -- this time focused on identifying additional benefits, if possible. Such a benefit search is clearly inadequate to address the problems in the 1977 Restudy pointed out above.

The Corps is examining four benefit areas: (1) area redevelopment, (2) regional economic development benefits, (3) 10 Percent contingency for "undiscovered" transportation benefits, and (4) coal shipments.

This restudy is without merit. It is a waste of time and money, and it is an embarrassment to this committee and to this State. It is a testament to political power, and it is a testament to economic ignorance. Each of the four restudy areas will be discussed below.

Area Redevelopment

It is my understanding that this component has been dropped by the Corps because there are no areas in The Canal region which are eligible for such benefits.

Regional Economic Development Benefits

The 1977 Report contained an extensive analysis of this category by Meta Systems (Meta). While there are benefits from The Canal for Jacksonville, there are few regional economic benefits anywhere else. Even the benefits for Jacksonville are small.

Meta notes that the Jacksonville MSA is economically mature, and its future growth rate is not likely to be affected much by The Canal. The reason is that most of the major infrastructure investments which could provide support for such canal related activities as shipbuilding and repairing, related warehousing and marine activities have already been built and their capacity is quite adequate to meet future needs.

Furthermore, Meta reports, "Although no specific opportunities were identified in the industry assessments, consider for example the impacts from additional shipbuilding or servicing operations, or from new light industries serving markets on the Southeastern Seaboard. Several major new facilities accounting for 6,000 manufacturing jobs is considered an optimistic expectation. Assuming two local support jobs are generated by every manufacturing job (a liberal assumption), the total canal induced employment increment would be less than 5 percent of the total employment projected without the canal for the year 2000. This magnitude of change is insignificant in view of major uncertainties inherent in long-range projections of this type (emphasis ours).

Nothing has changed to alter this conclusion. Meta could find no new firms who might move in due to The Canal in 1977 and none will be found today.

10 Percent Contingency for Undiscovered Moves

Despite the exhaustive study of this issue in 1977, the search goes on. Given that many of the moves identified by Kearney in 1977 were themselves speculative (having a probability of 50 percent or less), it appears to be stretching to allow for an arbitrary 10 percent on top of the 1977 estimate.

Coal Shipments

This is the one area where conditions have changed since 1977. However, a review of the current conditions in the market suggests that little if any coal will move through a canal if it is ever built.

There are only three utilities which could conceivably use The Canal: (1) Seminole Electric Cooperatives station in Palatka, (2) the JEA-FPL station at the St. Johns River Power Park, and (3) the FPL Sanford facility, if it ever converts to coal. A review of each of these situations reveals that the probability of any of these plants using The Canal is very, very low.

Seminole Electric Cooperative has entered into a set of favorable long-term contracts for coal and coal-handling equipment. Seminole receives its coal by by barge (using existing waterways) to Port St. Joe, and by unit train from there to Palatka. The barges Seminole uses are not suitable to cross the open Gulf, and ocean barges can not use The Canal as it is currently planned. Transloading from ocean barges to smaller barges suitable for The Canal is not cost effective or practical. Finally, it would be expensive for Seminole to break its long-term contracts.

JEA purchases its coal on the spot market. It has developed a coal handling facility on Blount Island which allows JEA to receive coal by unit train from eastern coal fields, by ocean barges down the east coast, and by ocean going colliers. Each of these options would be cheaper than shipping coal through The Canal in small 1500 ton barges and transloading. Despite pressure from canal proponents in Jacksonville, no JEA executive has ever expressed any interest in the completion of The Canal.

The Blount Island facility is also large enough to accommodate JEA's partner in the St. Johns Power Park, FPL. Thus, if the Sanford station where to convert to coal, it would likely use the Blount Island facility not The Canal.

Finally, it is important to note that in Florida transportation of coal by unit train is competitive with barges. Both Tampa Electric and Florida Power Corporation receive coal, for some of their largest coal fired stations located on the coast, by both rail and barge. They do this because the rates are competitive.

Figure 1. Benefit Cost Ratios
Alternative Discount Rates

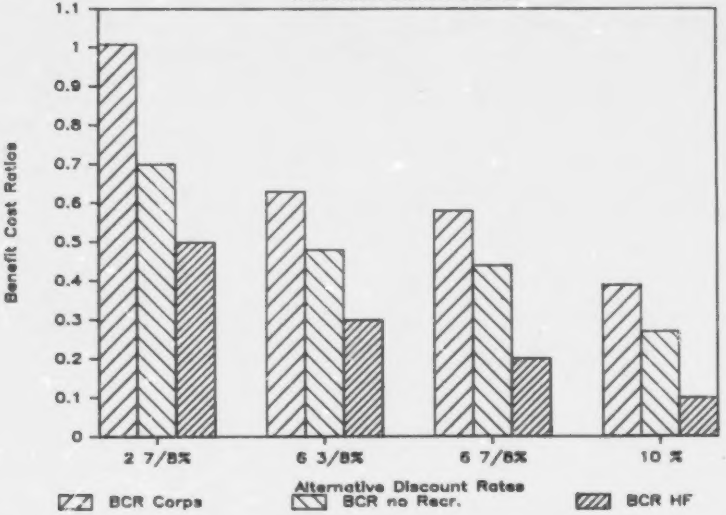
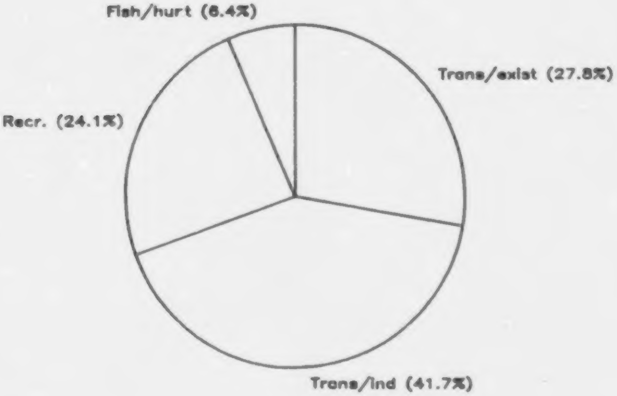
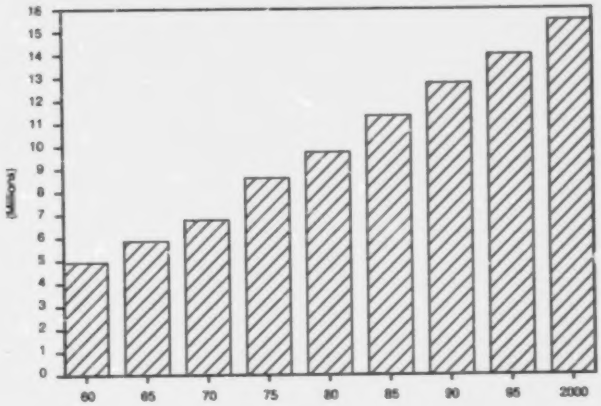


Figure 2. Distribution of Benefits
Cross Florida Barge Canal



PUBLIC INFRASTRUCTURE AND GROWTH MANAGEMENT: *THE CRUCIAL CONNECTION*

Florida Population



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Any mistakes of ommission or commission are our sole responsibility. We hope that this paper encourages a greater effort towards managing Florida's growth through investments in infrastructure.

HF and KD, Winter Park, Florida February 15, 1985

PUBLIC INFRASTRUCTURE AND GROWTH MANAGEMENT: THE CRUCIAL CONNECTION

1.0 Introduction

Growth management has risen to the top of Florida's political agenda for the 1985 legislative session. There is great concern that Florida's life-style amenities (ease of movement, open space and attractive communities), and environmental quality are deteriorating in the face of rapid population growth. Legislative leaders in both the House and Senate have identified growth management as their primary focus for this session.

Over the last ten years Florida has made great strides in managing its growth. Today we have some of the most imaginative and comprehensive growth management laws in the nation including:
(1) The Florida Environmental Land and Water Management Act of 1972 (Chapter 380, F.S.) which created a state planning agency, restricted development in areas of critical state concern and spawned the development of the regional impact review process;
(2) The State Comprehensive Planning Act of 1972 (Section 23.011, F.S.) which requires the State to develop a comprehensive plan to guide State agencies and the development process;
(3) The Florida Water Resources Act of 1972 (Chapter 373, F.S.) which provides for the management and protection of Florida's water resources;
(4) The Local Government Comprehensive Planning Act of 1975 (Section 163.160, F.S.) which requires all local governments to

develop comprehensive plans concerning their future growth and development;

(5) The Water Quality Assurance Act of 1983 (Chapter 83-310, Laws of Florida) which further protects Florida's water resources; and

(6) The Warren S. Henderson Wetlands Protection Act of 1984 (Chapter 84-79, Laws of Florida) which provides additional protection to Florida's wetlands.

Yet in spite of all these laws, concerns continue to mount over growth in the State. Clearly, given the current focus on this issue in the Legislature, regulations and laws have not been enough, by themselves, to manage Florida's growth. Additional steps beyond regulation will be needed if Florida is to effectively manage its growth in the 1980s and 1990s. Additional regulation by itself will not be adequate. What is missing is a commitment to fund the public infrastructure necessary to both control growth, and to mitigate its impact on the environment and on Florida's life-style amenities.

1.1. Theme

The theme of this paper is that growth management can only be accomplished when a comprehensive program of public infrastructure investment is added to our existing regulatory structure. Some excellent plans have been made. However, we can not implement these plans without the concomitant investment in roads, water systems, wastewater systems, and the like that these plans implicitly require and advocate. Presently, local governments do not possess the financing tools necessary to provide needed capital improvements in time to deal with growth pressures. The results are that growth degrades environmental quality and life style amenities, and local governments have not gained control over the growth process. The reality is that, in spite of plans, whenever local government cannot provide the necessary infrastructure which growth requires, local government must negotiate with the development interests. He who pays the piper gets to call the tune.

For large scale developments, which must pass through the Development of Regional Impact (DRI) review process, potential problems of inadequate infrastructure are generally resolved. The developers will usually be required to provide adequate facilities for their projects. Off site impacts are also addressed in most DRI reviews. However, the DRI process covers only a very small proportion of all development projects. One of our major problems lies in controlling the sub-DRI projects.

When infrastructure capital is used as a bargaining chip by development, the result often times is a minimum of improvements. This is particularly true for developments below the DRI threshold. If development provides the new infrastructure, it can pervert the regulatory process. Even worse, the existing backlog of unfunded capital projects continues to grow. Until we face up to the fact that existing residents have yet to pay for their full complement of infrastructure, we will not be able to preserve the quality of life in urbanizing Florida.

Along these same lines, changes in our understanding of environmental degradation has lead to new policies and rules governing acceptable levels of pollution. New regulations requiring upgraded waste water systems in our urban areas and more stringent controls over landfills are two cases in point. Such changes require expensive new investments in public facilities. These costs must be borne by existing residents and have little to do with new growth.

Before turning to a more detailed discussion of these points, we need a few definitions. For the purposes of this paper we define "growth management" as control over the land use development process. We define "infrastructure" as tangible public facilities, including but not limited to roads, bridges, electric generation and transmission systems, water systems, wastewater systems, drainage and stormwater facilities, schools, jails, and parks.

When we speak of the relationship between growth management and infrastructure, we note that there is a fundamental nexus at work as the following equation illustrates. Environmental quality and the quality of life in Florida is a function of population growth, infrastructure and planning. The maintenance of environmental quality can be translated into dollar costs. Adequate infrastructure and appropriate planning both work to control such costs. Capital improvement planning acts to provide infrastructure to mitigate the impact of growth. To the extent that we do not plan well and fail to invest in the necessary infrastructure, the results are a lowering of the quality of life and a deterioration in our environment.

$$\begin{array}{l}\text{ENVIRONMENTAL QUALITY} \\ \quad\text{and the} \\ \text{QUALITY OF LIFE}\end{array} = F\left[\begin{array}{ccc}\text{POPULATION} & , & \text{INFRASTRUCTURE} \\ \text{GROWTH} & & \text{and} \\ & & \text{PLANNING}\end{array}\right]$$

This relationship expresses the stark reality of the choices we Floridians face. Florida has experienced rapid, sustained population growth since 1950, and regardless of what we do or do not do there is every reason to believe that this growth will continue through at least the year 2020. While rapid population and economic growth have brought great benefits to our State, it has also created great costs because of our reluctance to plan, to implement our plans, and, most importantly, invest in infrastructure. As the equation above indicates, we can either decide to manage our growth through planning and investment in infrastructure and thereby maintain the quality of our environment and our lives; or we can choose not to manage our growth and witness the further deterioration of both the environment and the quality of life here in Florida.

To date we have not managed our growth very well. Until the early 1970s the State lacked the necessary planning tools. However, during the 1970s and early 1980s, Florida became a leader in growth management legislation. The Legislature required every city and county to enact a comprehensive plan, with which local land use decisions and regulations must be consistent. Large-scale developments must satisfy the stringent review parameters of the Development of Regional Impact review process. The development of environmentally sensitive lands is now severely regulated by landmark wetlands laws and judicial decisions (see Graham v. Estuary Properties, 399 So. 2d, 1374, Fla. 1981). The State now purchases critical environmental lands, and we have strong laws protecting water resources and wetlands.

Yet, despite such progressive legislation, we are faced with a crisis. The problem is not our laws. We have sufficient regulatory law available now. The problem is two-fold. First, we do not fully and fairly implement the laws we now have governing land development and growth management. Second, we have been unwilling to invest in the necessary infrastructure to maintain the quality of life and the environment in a growth state. Simply put, we get exactly the kind of Florida we are willing to pay for. There are no free lunches.

Our growth management problem is not exclusively a problem caused by the prospect of continuing rapid population growth. A major part of our problem relates to our existing population base. If not one more new person moved to Florida over the next 10 years, we would still face an enormous growth management problem. The blunt fact is that,for some time, we have not kept pace with the infrastructure requirements of our burgeoning population. As a result, environmental and life-style amenities have suffered.

Ironically, the very environmental and life-style qualities that attract people to Florida in the first place are being consumed by those same people who represent all of us -- collectively and individually. There are not any Martians driving on Florida's roads; there are not any Venutians drinking our water; and no Klingons have been spotted crowding our beaches or littering our piney woods. In the immortal words of Pogo, we have met the enemy and it is us.

Perhaps some may think that the claim that we are all responsible for the current unsatisfactory situation is too inclusive. How often have we heard, thought or said, "This was a fine place until all the new people moved in and ruined it!" or, "All these tourists are making the roads and beaches over-crowded: If it were not for them, things would be better." Such statements presume that others have no right to be in Florida; that, somehow, we "own the place" or the roads or the beaches, and that others are intruding on our space. Yet, this presumption is not so. Florida's borders are open and the State must be managed with consideration for existing residents, future residents and tourists. With our private market economy and under our current system of law, there is no other way.

The transition from a rural state to a fast-growing, urban state in less than thirty years is disruptive. Additionally, the rural/urban transition involves additional capital costs as density increases. An urban society requires more roads, schools and policemen. Although some may lament the urbanization of their communities, the transition is inevitable and irreversible. We cannot stop Florida's growth, so we must control, accommodate, manage, and guide it to obtain the highest possible quality of life for all.

Planning is critical to controlling growth. Through proper planning, project costs are controlled and effective infrastructure investment programs can be implemented at the right time in the right place. Unfortunately we have not planned very well in Florida. Indeed, most public agencies struggle to plan. For the most part, planning is conducted in a crisis-driven atmosphere at the local level. Planning is rarely used prospectively to identify future problems and attendant solutions. Instead, plans are often developed and used subsequent to a "crisis situation" to validate a presupposed solution.

Such a situation is completely understandable, since local governments do not possess the financing tools to resolve some of their most pressing, long-term problems. Thus, if you cannot solve a problem anyway, why plan a solution?

While plans are important, they are not enough by themselves. Plans may recognize needs, but they do not provide the funding. While regulations are important, they are not enough by themselves. Regulations can help to avoid excess costs, but they do not generate funds for infrastructure. In fact, excessive regulations can create costs. For growth management to work in the 1980s and 1990s, we must stop waiting for better plans and new regulations to solve our problems. We must face the fact that we need greater investments in infrastructure, and that it will cost everyone -- both new and existing residents -- money.

Growth management is possible and necessary in a growth state, but it can only be accomplished through a bold program of capital infrastructure investment. It is through our infrastructure -- roads, bridges, water systems, wastewater systems, schools, etc. -- that we control growth. Infrastructure guides growth, and when properly priced, it controls growth. Without a program of infrastructure investment our plans are empty -- proud words on a dusty shelf, mere sand castles which are washed away by the wave of population growth. We must face the fact that for growth management to be effective, it will take money.

Fortunately, we Floridians have both the resources and the time to implement a growth management program. This paper discusses some of the funding options we have at our disposal to implement an infrastructure investment plan.

Section 2.0 reviews the status of Florida's infrastructure. It assesses the backlog of unmet capital needs and the prospects for future requirements. Section 3.0 examines the linkage between growth management and infrastructure investment. Finally, section 4.0 presents some thoughts on a comprehensive program for infrastructure investment and growth management in Florida.

2.0 Florida's Infrastructure: Current Status and Prospects

Precise analyses of the status of Florida's existing infrastructure do not exist. The best work to date is by Sipe and Starnes (1983), and will serve as our point of departure. Any estimate of capital needs for infrastructure is problematic. Among the major problems in estimating the unfunded amount of capital needs include: (1) the lack of capital improvement plans for most units of local government, (2) difficulty in identifying funding sources, (3) differentiating real needs from desires for better facilities, (4) assessing the future cost of facilities, and (5) assessing the future costs imposed through changing regulations.

Granting the difficulty of the task, it is important to estimate the magnitude of the problem. Is the problem small and, therefore, amenable to solution through existing mechanisms; or is the problem large, requiring new approaches? In our judgment the problem is very large indeed. Florida has an extensive amount of unmet and unfunded capital needs for its existing population, let alone facilities for new growth.

Table 1 (page 27) contains our estimate of the unfunded capital needs for Florida. The estimates relate to identified capital facilities needs for which no funding source has yet been identified. That is to say, in spite of Florida's efforts to date to increase funding for capital improvements, we estimate the unfunded backlog necessary to serve existing residents at $29.2 billion in 1982 constant dollars. The population growth expected between 1985 and 2000 will add an additional $17.1

billion to the total which will reach $46.3 billion given current policies and programs.

Roads and bridges account for the majority of the unfunded capital needs, and they best illustrate the problems we face. In a nutshell, our investment in roads and bridges has failed to keep pace with our rapid population growth. **Over 20 percent of our existing road network is either structurally or operationally deficient.** Recent legislation providing for the local option gas tax for transportation improvements was a major step in the right direction, but at best it will prevent further rapid deterioration of local roads. It does nothing, however, to address the shortfall for state and federal roads.

Sipe and Starnes (1983) report that Florida's highway system contains 95,776 miles of roadway and has four types of roads: federal interstate highways, state roads, county roads and city roads. State and federal roads account for 11,125 miles of the system, and they carry more than 60 percent of the traffic load. The system also contains over 9,000 bridges of which 5,373 are state maintained.

The condition of the state and federal road system in Florida was assessed in 1982 by the Florida Department of Transportation (FDOT). The results are summarized in Table 2 (page 28). Over 22 percent of the state and federal roads in Florida are classified as structurally deficient and nearly 20 percent of the system is operationally deficient. In urban counties, over 25 percent of the state and federal road system is severely congested. As a result, the backlog of needed repairs and construction is estimated at $10.5 billion (see Table 1), but there are no funds available to rectify the situation.

The status of city and county roads is not known because there is no comprehensive analysis available. This is a classic example of how local governments respond when they do not have the resources to resolve a problem -- they do not formulate plans or even estimate the magnitude of the problem. In any event, we can make some rough estimates. A review of the plans for roadway improvements developed by the metropolitan planning organizations (the designated planning bodies for transportation improvements at the local level) in Alachua, Orange and Palm Beach Counties suggests that there is a large backlog of unmet road needs. Furthermore, in each case these three counties identified a "needs plan" which would improve the transportation situation by addressing both the backlog of existing needs and the requirements of new growth. In general, the "needs plan" would bring service levels up to grade "C" for all roads. However, in each case the planning organizations could not find sufficient funding for their "needs plans", so they scaled back improvements to a "cost feasible" alternative. By and large, this means that the worst bottlenecks will be addressed, but service levels across the entire system will continue to deteriorate. In general, the cost feasible plan is 50 percent less expensive than the needs plan.

Based on this small sample from Alachua, Orange and Palm Beach Counties, we can make a rough estimate of the backlog of road and bridge needs at the local level. It is reasonable to expect that the local backlog is approximately the same as the backlog for the state and federal system, $10.5 billion. Furthermore, we must emphasize that this backlog represents **unfunded needs**, and it is in addition to the currently funded construction programs now underway.

According to Sipe and Starnes (1983), between 1986 and 2000 Florida's growth will generate the need for an additional $22.2 billion in transportation improvements on the state and federal system. However, the funding available totals only $14.0 billion which leaves an unfunded capital facilities need of $8.2 billion (see Table 1).

Sipe and Starnes' (1983) outlook for the local transportation system is somewhat better. During the next 15 years, transportation funding needs amount to $8.5 billion and resources total $5.8 billion. This leaves a shortfall of $2.7 billion. The funding outlook for the local road system is more optimistic than that for the state and federal system because of the revenues generated by the local option gas tax. While this tax is valid only for a limited amount of time, it will go a long way toward helping local governments deal with their road needs. Even so, there remains a substantial funding gap of $2.7 billion to meet future needs; to say nothing about addressing the backlog of existing transportation needs at the local level.

With respect to other capital facilities in the State, the situation is similar to the transportation sector, except that the dollar shortfalls are much smaller. In general, our investment in water systems, wastewater systems, solid waste, jails, schools and other capital facilities has not kept pace with population growth and the needs of an urbanizing society. While the dollar shortfall is smaller in these categories, the funding sources are also less certain.

The bottom line is that Florida has a large backlog of unfunded capital needs. Currently, these total approximately $29.2 billion which is over $2,500 per person. Over the next 15 years Florida's population is likely to reach 15 million. The projected additional shortfall amounts to $17.1 billion.

As noted above, these shortfalls are not costs which we can avoid. We pay the costs of underfunding needed capital facilities through a deterioration in both our environment and our quality of life. In this regard, traffic congestion is the most obvious price we pay for underfunding the transportation system in the State. Waiting for the light to change four or five cycles is a symptom of the cost of not investing in adequate transportation, and a detraction from our quality of life.

Some argue that if we address our infrastructure needs, we will stimulate growth. Instead, they argue for the ostrich approach of doing nothing and letting conditions deteriorate further as a way to control growth. The truth is just the opposite. By not investing in infrastructure we have lowered the cost of living in Florida below true costs. As a result of the ensuing low price, the demand has accelerated and population growth is stimulated. Only through investing in infrastructure and pricing it correctly can we hope to manage growth effectively in a state as attractive as Florida. These issues are discussed

3.0 Growth Management Through Infrastructure

Over the last ten years growth management policy in Florida has been limited largely to more regulations. With several notable exceptions, increased investment in infrastructure has not played a role in growth management. While we have made great progress in managing our growth, our veritable love affair with growth management legislation has not been enough. Recent public opinion polls find that Floridians are more concerned about growth than ever. The political leadership of our State has also identified growth management as one of its top priorities for the 1985 legislative session.

However, at this time there are no proposals for addressing the infrastructure investment issue. Current growth management discussions revolve around reform and expansion of the existing regulatory structure. Without a strong infrastructure investment program, new regulations will be no more successful than past regulations in truly managing Florida's growth.

Regulation alone has not effectively managed Florida's growth. The reason is that regulations alone ignore fundamental economic forces which propel growth in Florida. Powerful economic and demographic forces are stimulating Florida's population growth, and there is little State policymakers can do to alter this condition. Thus, continued rapid growth is inevitable for the foreseeable future. Regulations which ignore this fundamental reality are doomed to failure. If growth management regulations are to succeed, then they must harness (rather than ignore) the power of the economic system.

How does infrastructure fit in? Briefly, by investing in infrastructure, development costs increase. Instead of the environment and life-style amenities bearing the costs of growth, the improved infrastructure shields the environment, while it forces those who use the new facilities to pay their full and fair share. Without infrastructure investment, apparent growth costs are reduced. Any time the price of goods is too low (in this case the price of moving to or living in Florida), the demand for the goods is too high. Simply put, **we have been selling Florida too cheaply.** As long as the price is below full cost, we will continue with rapid and relatively unmanaged growth in spite of our regulations because the economic forces will continue to be too strong. As long as the price of Florida is too cheap, we will continue to exact the excess from our environment and quality of life, regulations notwithstanding. Only when we have raised the cost of moving and living in Florida to its true full-price level will we succeed in managing our growth through our regulatory system. These ideas are discussed more fully below.

3.1 Rapid Growth for the Foreseeable Future

Florida is likely to experience rapid continued population growth for the foreseeable future, and by the year 2000 Florida's permanent residential population will likely total 15 million. There are powerful economic and demographic forces which are propelling our population growth. These trends are so strong that, barring a radical change in policy, Florida can do little to affect the scope of growth.

Demographic forces alone suggest that Florida will continue to experience rapid population growth through the year 2000 and beyond. First, over 90 percent of Florida's population growth comes from the net migration of people into the State (Smith, February, 1984). Between 1975 and 1980, 21.7 percent of this migration stream was composed of people 65 years of age and over. People age 25 to 44 and their dependents accounted for another 46.2 percent. Second, over the next 15 years the Census Bureau projects that the two most rapidly growing age groups in the U.S. will be people age 25 to 44 and people 65 and over. Thus, if Florida garners the same share of these two age groups in the upcoming 15 years as it did between 1970 and 1980, Florida's population growth will accelerate since the pool of potential migrants from which it draws is projected to be larger than before.

Third, during the 1970s Florida drew fifty percent of its migrants from just ten states: New York, Ohio, Illinois, Michigan, Pennsylvania, New Jersey, Massachusetts, Virginia, Georgia, and California. The economic restructuring which is affecting basic industries, throughout the U.S. is impacting many of these departure states the hardest. Thus, the demographic forces described above are being reinforced by economic forces.

Based on these data, Florida will continue to experience rapid population growth through at least the year 2000. According to widely used projections by Smith (April, 1984), by the year 2000 the State's population will total between 13.1 million and 16.2 million with 15.1 million being the most likely.

Policymakers in Florida can do little to influence these powerful economic and demographic forces which affect Florida's population growth. Thus, growth management plans must recognize that rapid population growth will continue regardless of the plan. We have little, if any, influence on the scope of growth. We can, however, affect the quality and location of growth. We have little influence on the quantity of growth. Thus, plans must be made in light of this fundamental fact. To do otherwise is to invite frustration.

3.2 Infrastructure as a growth management tool

Infrastructure investment can be a powerful growth management tool if we do five things: (1) provide infrastructure with capacity sufficient to accommodate growth at the appropriate level of quality to minimize negative spillovers; (2) locate the infrastructure in areas which can best absorb growth; (3) price the infrastructure appropriately at full cost; (4) mandate that development occur where and when the infrastructure is provided; and (5) catch up with the backlog of unmet capital facilities for the existing population. In this way, infrastructure and regulation can work together to manage growth.

We must provide infrastructure with sufficient capacity to accommodate the growth which will occur when full costs are recognized. When a community does not provide adequate capacity to serve growth, the private sector generally provides the least cost amount (which is not necessarily a cost effective amount) of infrastructure required by law. In addition, the developer locates the infrastructure at locations which cost the least to the developer, without regard to overall community needs. In general, the costs charged by the development to the ultimate owner of the land are lower initially than would be the case if a complete complement of infrastructure were provided or required. This is particularly true for developments below the DRI thresholds. Negative spillovers often occur (congestion, drainage problems, etc.) because of the lack of adequate infrastructure, and the backlog of infrastructure problems expands. Furthermore, when development provides infrastructure, the infrastructure rarely meets the levels envisioned by a comprehensive plan.

Infrastructure, such as major transportation corridors, water distribution and wastewater interceptor systems, are powerful directors of growth. In some areas of Florida, these "backbone" systems virtually control growth. Through infrastructure placement, we can control the location of growth, directing it to those areas which can best absorb growth and its associated impacts.

The existing pricing system for much of our infrastructure is faulty. We do not pay for the full capital, operation, and maintenance costs of our infrastructure. The best example of this is our road system. The fact that over 22 percent of Florida's state and federal road system is structurally deficient with another 20 percent operationally deficient clearly indicates the lack of full pricing for operations and maintenance.

Another example involves regulations permitting developments to use septic tanks in urban areas. Although the hydrogeologic conditions (ie. soils and shallow water table) may accommodate septic tanks at rural densities, they are often inadequate at urban densities. Allowing development to use septic tanks stimulates growth since the capital and operation costs are initially lower. However, when densities increase beyond the absorption rate of a given area, central wastewater systems are required. The initial under-pricing of required facilities results in excess demand and extra costs.

Finally, we must implement our existing land use and comprehensive plans. Plans are useless if they are not implemented. It will cost money to implement the plans and construct the infrastructure envisioned by the plan. It will take perseverance to follow the plans and to allow growth where the infrastructure exists with surplus capacity.

In this regard, we must resolve the unfunded backlog of infrastructure needs generated by our existing population base. It is fine to expect new residents to pay for the capital facilities that they require, but this does not satisfy the existing capacity backlog. That backlog thwarts complete growth management and continues to degrade the environment and Florida life-styles. Regulations and impact fees will do nothing to resolve this backlog problem. If we truly wish to control growth and its consequences, infrastructure investment is the only solution to this backlog problem.

4.0 A Program for Infrastructure Investment and Growth Management

We Floridians face large and complex growth management and infrastructure problems. This paper does not and cannot provide the definitive answer to all of the issues surrounding the problem. However, it does provide a framework and an outline of a program for making progress. Since we believe that infrastructure investment and growth management are intimately intertwined, the program addresses both parts of the problem in a comprehensive fashion. Before turning to a discussion of the program itself, it is useful to examine some principles which guided its design.

4.1 Guiding Principles

First, almost all land use decisions are made at the local level by county and city governments.

Second, most land use decisions are best made by local government because local government is closest to the problem. Local government has and will continue to oppose further preemption attempts to elevate land use decisions to the state or regional level. In our judgment, we will not resolve our dissatisfaction with current growth management policies by enhancing the power of state agencies, or through additional regulatory law granting nonlocal government land use decision-making authority.

Third, fiscal capacity and control is at the state level. To the extent additional funds are needed for infrastructure investment, state government should provide either the funds or the power to generate the funds to local government. Although many units of local government have unused fiscal capacity (property tax rates which are not at their constitutional maximums, for instance), it may not be politically feasible to use this capacity in most jurisdictions.

Fourth, to resolve the growth management/infrastructure problem, state and local governments should work together towards compromise. State government can provide local government with the funding tools needed to finance necessary infrastructure capacity and implement effective growth management plans. In return, local government can meet strict state requirements with regard to growth management and infrastructure investment. Simply put, if a unit of local government meets the necessary state requirements, it can avail itself of the funding tools state government provides.

Fifth, the funding tools must be realistically implementable. It is not realistic to imagine the state generating new tax dollars and parceling these out to local government. Such a grant program would not only be infeasible, it would be bad policy. Instead, we view the tools as funding options that the state would allow local government to use, in much the same manner as the local option gas tax. The funding tools then allow a unit of local government to raise revenues from its own sources. There is no need to invent exotic funding sources because we already possess a number of tried and true options which need only be expanded. The tools we envision include:

1) local option gas tax,
2) local option sales tax,
3) local option documentary stamp tax, and
4) local option impact fees and taxes.

Sixth, the program must be flexibile. Local government must be allowed to fashion its own infrastructure funding program and growth management plan based on local needs locally determined. A solution which works in Collier County may not be right for Tampa.

Seventh, the requirements that local government must meet to qualify for the funding tools must be feasible and must satisfy the most common complaints about the state of current growth management at the local level. More specifically, local governments will need to implement and enforce their plans. Continuous rezoning and plan modification must be reasonably limited while maintaining some degree of flexibility. Capital improvement plans are a must. Land use maps should be required and zoning should comport with the map and the capital improvement plan.

Eight, growth waits for no one. New state regulatory mechanisms should be streamlined and responsive.

Finally, the program must include provisions for state grants to smaller counties which may not have sufficient resources to improve or increase their infrastructures capacity even after the funding tools are utilized.

4.2 Tools

The funding tools to be provided to local governments, either cities or counties, have a common principle. Each tool is an optional tax or charge which local government can use. The idea is to pattern these options on the successful local option gasoline tax. There is no requirement that a unit of local government use each of the tools or any of the tools. However, if the unit of local government satisfies reasonable requirements, it can use the tool to raise funds for infrastructure construction, operation and maintenance. Finally, the authority to use the tools remains in force as long as the local government continues to meet the State's requirements as set out below (consistent with contractual obligations).

We envision four funding tools. The revenues raised from each tax are restricted to particular capital improvements and their subsequent operation and maintenance.

Local option gas tax -- This tool provides an additional 4 cents of gas tax on top of all existing sources. The funds must be used only for transportation improvements, and for the operation and maintenance of any new or existing facility. The local government can use all or part of the additional 4 cents.

Local option sales tax -- This optional tax provides up to 2 cents for building any nontransportation facility. Funds can also be used to operate or maintain any facility built using this optional tax.

Local option documentary stamp tax -- This option provides for up to 45 cents per $100 on deeds and other documents related to real estate and for up to 15 cents per $100 on corporate shares, bonds, and other financial instruments. The proceeds can be used for any nontransportation capital facility.

Local option impact taxes and fees -- This option allows a tax of up to 10 percent on all construction including residential, commercial and industrial buildings excluding all nonbuilding construction and government buildings. The tax will be collected at closing and may be incorporated into the cost of the building for financing purposes. The proceeds will be used only for expanding the capital facilities of water, wastewater, fire or police services as required tc service new growth. If this tool is used, all other impact fees or charges will be prohibited.

4.3 Requirements

Before a county or city government is authorized to use the funding tools, it must satisfy the State that it is meeting certain requirements concerning growth management and infrastructure investment. As long as the local government satisfies the requirements, it will be authorized to use the tools (consistent with contractual obligations). The requirements will relate only to growth management and to infrastructure investment.

First, the government must have an approved comprehensive plan, and the plan must be updated on an established regular basis.

Second, the plan must include a capital improvement element. The capital improvement element must provide for capital facilities over a 5-year horizon.

Third, the plan must identify and reserve tansportation and utility corridors with a 20-year planning horizon.

Fourth, every plan must contain a land use map and the map must be consistent with the capital improvements plan and transportation/utilities corridors. Fifth, the local government must agree to make zoning decisions which are consistent with its plan.

Sixth, local governments must enact policies to restrict alterations of the plan to no more than four times per year. Continuous rezonings and concomitant alterations of the land use plan should be minimized.

Seventh, any capital facilities which are built using optional funding sources must be fully maintained using that same source of revenue or other recurring revenue pledged for maintaining the facility.

Finally, for very large infrastructure projects such as solid waste processing facilities or major highways, local governments must agree to coordinate their efforts through the appropriate regional planning organization.

4.4 Final Considerations

First, the State will collect all of the optional gas and sales tax revenues outlined in Section 4.2 as it collects the local option gas tax revenue today. The State will charge a collection fee of up to 2 percent of the gross revenues involved. A portion of the fee will offset the costs of collecting the tax and a portion of the fee, up to 1 percent, will be set aside in a special trust fund. Local government will collect the remaining optional taxes. They, too, will forward 1 percent of the receipts to a special trust fund to provide grants to the small counties.

Second, the special trust fund will be used to provide grants to small counties without sufficient local source revenues for necessary capital improvements. For example, if a rural county utilizes the tools but still has insufficient funds for a project in its comprehensive plan, it can apply for a grant from the special infrastructure trust fund.

Finally, in view of the huge shortfall in funds for improving the State and federal portion of the State's road system, it is incumbent upon the State to increase the State gas tax by at least 5 cents per gallon. This will not only set an example for local governments, it will demonstrate that Florida is serious about growth management.

Table 1 - Estimate of Unfunded Capital Facilities Needs
(in billions of 1982 $)

	Backlog	1985-2000	Total
Roads and bridges:			
State and Federal	$10.5	$8.2	$18.7
County and Municipal	10.5	2.7	13.2
Wastewater	2.1	0.6	2.7
Water	1.6[2]	1.0	2.6
Solid Waste	2.2	1.2	3.4
Jails	0.3	0.4	0.7
Schools & Universities	1.0	2.0	3.0
Other	1.0	1.0	2.0
TOTAL	$29.2	$17.1	$46.3

Source: Sipe and Starnes (1983)
1. Estimate based on vehicular traffic loads
2. Estimate based on wastewater trends
3. Our estimates for facilities not included in Sipe and Starnes (1983)

Table 2 - Summary of Conditions: State and Federal Road System in Florida

	Lane Miles	Structural Deficiencies		Operational Deficiencies	
		Lane Miles	Percent	Lane Miles	Percent
Urban Counties	22,773	4,680	20.5	6,119	26.9
Rural Counties	11,703	3,199	27.3	532	4.5
State Total	34,476	7,879	22.8	6,651	19.3

Source: Florida Department of Transportation, *Roadway Deficiencies,* 1982

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June 10, 1985

Dear Mr. Chairman:

Since September 1976, the position of the Ocala-Marion County Chamber of Commerce has been one of opposition to completion of the Cross Florida Barge Canal. This position was taken after exhaustive study and after hearing testimony from the proponents for and opponents of completion.

The Chambers Environmental Affairs Committee recommended to the Board of Directors that they go on record opposing completion after months of environmental and economic studies and considerations. As late as August 1983, this position was reconfirmed. As President of the Ocala-Marion County Chamber of Commerce, I have been authorized to again express our opposition to completion of the Cross Florida Barge Canal because we feel the project is -

1-Environmentally unsound
2-Economically unfeasible
3-Would result in the loss of a considerable portion of Marion Counties Oklawaha River Basin. One of our most scenic and valuable natural resources.

A. M. Collins, Jr., President
Ocala-Marion County Chamber of Commerce

My name is John McKeever and I live and practice law in Marion County, the area of Florida which will be most affected if, by some bizarre twist of political fate, the Cross Florida Barge Canal should ever be completed.

It was my privilage to serve as a member of the Board of Directors of the Ocala/Marion County Chamber of Commerce for ten years, as President of that organization in 1978 and - perhaps most relevant to my remarks today - as Chairman of the Canal Authority of the State of Florida in 1978 and 1979.

Thus I appear today, I believe, as a representative resident of the geographic area most concerned with the question you consider, as a fair representative of the business and professional community in that area, and as one with sufficient knowledge of the economic, environmental, legal and political aspects of the Canal as to justify your courtesy in permitting me to testify.

I appear today to urge that you disconnect the political life-support system that, for 15 years ,has kept the brainless Cross Florida Barge Canal project legally "alive."

In urging you to include deauthorization of the Canal in the 1985 Water Projects Bill, I realize that I urge a course different than that advocated by Congressmen Bennett and Chappell.I have great respect for Congessman Bennett and for my friend Congressman Chappell -- and great appreciation of the legislative skill with which they have nurtured the Canal project in its declining years -- but in this time, when the national political dialogue is dominated by the problem of the immense federal deficit and the "fairness" issue, it is only fair that they be relieved of the burden that has estranged them from both the Legislative and Executive branches of State government, from the majority of their Florida colleagues in the House and Senate and from every Administration, Democrat or Republican, since 1971.

I will not attempt, given the array of expertise you will have heard today, to burden you with a detailed analysis of either the economic or environmental arguments for the overdue deauthorization.

As respects the former, the fact that in the 1977 Restudy Report the Corps of Engineers, using a $2^{7}/_{8}$% interest rate, could not demonstrate a positive Cost/Benefit ratio speaks with an eloquence I could not hope to match.

As respects the latter, I need, I believe, merely invite your attention to Appendix D of the Restudy Report Summary. Conceding that the geology and hydrology of the 30 mile Summit Reach in Marion County presented problems of porosity and leakage into the aquifer, the Corps suggests the probability of occurrances are "not uniform" and "must be anticipated and dealt with as they occur."

Accidental spills of toxic substances into the Canal, according to the Report,"can never be eliminated," but the Corps takes comfort that "the only reach of the canal where this would be a significant problem is the Summit Reach" and that the major danger is merely "ground water pollution."

You can understand, I hope, that the more than one hundred thousand men, women and children who now live in Marion County and the quarter of a million people who are anticipated to live there by 2000 are not as sanquine as the authors of the Restudy Report respecting the potential for pollution of the ground water upon which their lives and livelihoods depend. While it may be an exaggeration to call the Summit Reach a potential Love Canal, it is most certainly a canal the overwhelming majority of Floridians do not love ... and do not want.

In the years since suspension of construction activity in 1971, the State has acted to establish a comprehensive legislative program to insure that, upon deauthorization of the Canal, the lands and rights originally acquired for the Canal will be, so far as necessary and desirable, retained in public ownership. This program makes provision for transfer of appropriate lands for inclusion in the adjoining Ocala National Forest, for protection of the unique Oklawaha River, for retention and management of fishing and recreation facilities and for careful planning and use of remaining lands and facilities, with disposition by competitive bid only as respects lands not needed for any public purpose. In litigaton concluded only in the past year, the State's Supreme Court has laid to rest any question of an unanticipated reversion of Canal right-of-way to private ownership upon deauthorization. The legislation proposed by Congreeman MacKay and others is carefully drawn to interface with the provisions of the State's program.

In summary, while there are no valid economic justifications for construction of the Canal, there are compelling economic and environmental reasons for deauthorization. I urge the Subcommittee include deauthorization of the Cross Florida Barge Canal in the legislation it recommends to the Public Works Committee and to the House.

STATEMENT OF BRUCE KASTER

Mr. Chairman, I am Bruce Kaster, a Marion County resident appearing here on my own behalf as a private citizen. Unlike the eloquent lobbyists for the Florida Waterways Association, I am not paid to be here and I have no direct or indirect personal financial interest in the Cross Florida Barge Canal. I am not a scientist, economist, or an engineer. I cannot relate any new scientific or emperical data to the Committee in support of my strong opposition to completion of the Canal. Like you, I am forced to rely on trained experts who have studied the economics of the Canal and its environmental impact.

You are well aware that there is overwhelming scientific evidence establishing that the Canal is economically and environmentally unsound. The scientific studies indicate, among other things, that completion of the Canal will, in all likelihood, cause irreparably damage Central Florida's water resource. The cost/benefit analysis indicates quite clearly that the astronomical expense required to complete the Canal is not justified.

As the fourth fastest growing metropolitan area in the country (based on the most recent U.S. census study) our fragile water resource is critical in the management of future growth. It is also critical to our multi-million dollar thoroughbred industry which relies on our unique water resource to produce some of the finest thoroughbred horses in the world. It is due, in large part, to our mineral rich water resource that the thoroughbred industry flourishes in Marion County.

Because of the vulnerable nature of our water resource here in Central Florida, we have recently experienced ground water pollution problems from petroleum seepage and agricultural pesticides. Correcting these problems is expensive when corrective measures are available. Yet these problems pale in comparison to the potential damage to the water supply from the Cross Florida Barge Canal.

Not surprisingly, the folks who want to complete the Cross Florida Barge Canal dispute the scientific studies and the economic studies which indicate the Canal is not viable. However, when you look at all of the information that has been accumulated, it is readily apparent that the evidence against the Canal is overwhelming.

I would like to mention, at this point, that I have spent considerable time studying the Canal since the late 60's. While a student at Virginia Polytechnic Institute in Blacksburg, Virginia, several of my engineering instructors used the Cross-Florida Barge Canal as an example of an ambitious engineering project that would be an environmental disaster. At that time I had no plans to live in Ocala, but since my family was from Daytona, I was interested in the project. When I learned that President Nixon halted construction of the Canal, I assumed that the project was ended.

When I returned to Florida, to live in Ocala, I was surprised to learn that the Cross Florida Barge Canal lingered on. Over the next 10 years, I had an opportunity to hear both pro-canal and anti-canal arguments and to review numerous studies on the canal as a member and twice chairman of the Ocala-Marion County Chamber of Commerce environmental affairs committee. After consideration of the evidence from both sides, my committee, and the Chamber, repeatedly opposed construction of the Canal and supported de-authorization measures initiated by Senator Chiles and Congressman MacKay.

In my present position as the Marion County representative on the Oklawaha Basin Board of the St. John's Water Management District, I have had the opportunity to continue to monitor the Canal project. Based on the information the Basin Board has received, we have endorsed Senator Chiles and Congressman MacKay's de-authorization measures.

As I have told you, I do not purport to be an expert and I will leave the arguments on economics and environmental impact to the experts who are here to address those issues. I would like to talk about the loss of the Oklawaha River. I cannot put a dollar value on the river anymore than I can put a dollar value on the bald eagle, but I will tell you that if you take the time to travel down the river, I am confident you will find it to be uniquely beautiful, and indeed, one of the natural wonders of the State of Florida.

One of my earliest memories as a small child was trips with my grandfather from Daytona to Silver Springs to ride on the glass bottom boats along the Silver River. Like countless thousands of other Floridians, and indeed, people from all over the world, I was struck by the natural beauty of the river and its surroundings.

As an avid fisherman, I have spent countless hours on lakes and streams throughout the State of Florida, but I have never found anything to compare to the Silver River and Oklawaha River. I will not tell you that the best fishing in Marion County is in the river, but I have spent many hours drifting down the current enjoy-ing the unique and unspoiled beauty of the river, not really caring whether I caught fish or not. If you take the opportunity to tour the river, you will understand why.

This is not an argument that will be persuasive to those who believe they can make a profit from the construction of the Canal or from its use. The argument that beauty should be preserved for beauty's sake falls on deaf ears for those who want to turn the Oklawaha River into a ditch. I would point out, however, what happened when the Kissimmee River was ditched. It turned out to be an environmental nightmare. It is now costing the taxpayers of the State of Florida millions of dollars to try and restore the Kissimmee River to its natural course in order to eliminate the numerous problems that have developed from tampering with nature.

In conclusion, from the prospective of a fisherman on the river and a resident of Marion County who would like to preserve this unique natural resource, I urge that you recommend prompt de-authorization of what can only be called a boondoggle project that represents a disgraceful waste of the taxpayer's dollars and which will result in irreversible devastation of the Oklawaha River.

Thank you.

Mr. ROE. Now, our last group of witnesses are listed on my schedule as individuals. These are fellow citizens who have come here and journeyed and waited and listened intently to the debate and the discussion today. So, suppose we ask Mr. Al Oltman, Mr. Edgar Johnson, Mr. Alan Fields, Mr. Ralph Elliott, Mr. Giles Evans, Mr. Barrow, and Mr. Skipper; also Mr. Odom and Mr. Pritchard. This could possibly be the most interesting panel of all because I would think that they are not in agreement on the issue.

Mr. Barrow, would you like to begin?

TESTIMONY OF G.E. BARROW

Mr. BARROW. Not really, I do not like to be first, but at the same time I will, I have to do it sometime.

Mr. ROE. Sure.

Mr. BARROW. I am George E. Barrow, I am just a part of the John Q. Public, but I am interested in the canal because I believe it can be and will be one of the greatest things to happen to Florida in a good long time.

Basing my opinions and judgment on where I have been a lot of other places in the United States where we have had canals, where they have in almost every instance, the data that has been accumulated through the operation of other canals, intracoastal canals, that they have exceeded four or five times in the long run the estimated benefits before they began.

Furthermore, I have fished in some of the canals in Louisiana and in Texas. I fished at oil depots, oil stations where there were oil barges loading and unloading near the Houma, LA, area and we caught just as nice fish in the canal as you could catch anywhere and they have been there for years. There is no evidence of contamination and that was at an oil station. That does not mean that there could not be contamination somewhere else.

The studies—I want to make these points, these two studies which I have here, a number of you already have copies of them I am sure—the final conclusions made at the hearing before the Committee on Appropriations in the House was that the benefit ratio was 1.58 to 1 in favor of the need to finish the canal. I got those figures out of these reports.

There has been a tremendous in the potential benefit ratio in the last 8 years. These were made 8 years ago. I understand since I have been here that there has been some studies made since that time, which may not reflect that position, but at the same time, there has been a vast increase in the economy and growth and the needs of the State of Florida. Millions of dollars will be spent in industrial development alone in port and dock facilities, hundreds of new and permanent jobs will be created and millions of new tax dollars will be collected by the State, the counties, the cities, and the Federal Government agencies, and added to the ever-increasing need for more money for schools, roads, welfare needs, and public services expansion programs. Anyone who does not believe that is not doing a very good job of thinking.

Everywhere in the United States where canals have been constructed, as I have previously stated, the benefits have exceeded expectations four or five times.

None of these reports show any damage, permanent damage, to the environment. Obviously, you cannot dig a ditch without muddying up the water to start with. But permanent damage, there is not going to be any damage to the environment.

From the aquifer standpoint and the depths to which the canal is supposed to be built is far, far above the normal depth of the aquifer that we get our main water supply from. I doubt seriously if there is over 25 wells in the entire county of Marion that use drinking water at a depth of 25 feet. I have drilled—I drilled my own well and I encountered four levels of water, three of them were not fit to drink. My well is 110 feet deep and I have beautiful water, I have had it tested and it is as pure as it can be. But the water that we are using, the public, is not coming from the 25-foot depth or the 35-foot depth, most of it is coming down 200 or 300 feet deep, lots of it, lots of those wells are that deep.

The primary aquifer, as I have studied it and read about it is coming not just from the surface water in Florida alone, it is coming from the Appalachian mountains in the northern part of the country which comes in here at a very low level of strata where the water comes in. So, the canal could not possibly harm the—have very little effect on the aquifer.

Another thing that I have heard here today, several people talking about how much water that the canal is going to take away. Well, I am not an expert on canal operation, but I have seen a few of them, all the way from Seattle, WA to other areas in the country, and other than evaporation, there is very little need for the disposal of waste of any of the water that the canal is being used for, very little. If anybody knows anything about how the canal is operated and how the locks are operated, the water that goes into a lock when a barge is pulled into a lock and the gates closed behind it, the water is pumped into it out of the lock water supply reservoir, and when the barge has risen to the level of the canal on the upper level or whichever way it would be, the gates are opened and the barge moves out.

When the gates are closed, that same water can go right back down where it came from. So, there is very little water from the standpoint of circulation, is going to go through the canal in any direction. It is going to be replaced right back where it came from. I know that is how locks operate in some places, whether they plan to do that in this area or not, I do not know. I do not expect to get a job there.

I and probably 50 percent of all of the people that have been in this room today will not be here when the canal is finished, we are that old. I am old enough to know better than to even get into this thing, but I do those things, I do not have a lick of sense sometimes. I am 78 years old and I do not expect to be here and a number of people I see here will not be here either.

I think we owe to the future generations of the State of Florida the possibility and all the benefits that this canal can bring and will bring in the future. I believe that we owe another thing which has not been mentioned here today by anyone, only a small percentage of the actual cost of this canal has been borne by the State of Florida or any of the counties or any of the people. Most of the money has come from the Federal Government contributed by all the rest of the citizens of the United States. It seems to me to have been a one-way street when we talk about it is just Florida that is going to be hurt or just Florida is not going to get any benefits. Those people paid their taxes, their money went into the Florida canal and they will also benefit from the use of the canal because a lot of Florida products will be shipped out by the canal, particularly to the Midwest where millions of tons of Florida fertilizer goes to the Midwest to grow our wheat crop, in Oklahoma, Kansas, Texas, New Mexico—out in that country.

Those people have a right to some of the benefits for which their tax dollars have paid. And because of that, I believe that we cannot in all good conscience—it has been difficult for me to understand how a commonsense evaluation of the canal and this most important issue could possibly be negative. I am not thinking about today, I am thinking about tomorrow when the future generations will be here to benefit from it and I believe that about covers it.

I thank you, Mr. Chairman, for the privilege of being here and making my statement.

Mr. Roe. We appreciate your testimony.

Mr. Fields please.

TESTIMONY OF ALAN FIELDS

Mr. Fields. Mr. Chairman and the committee, I thank you. I will be as brief as possible.

My name is Alan Fields, I am an attorney, I am a native Floridian, I have lived from Miami to Pensacola and all places in between. I love this State and I particularly love this portion of the State, I have chosen it as my residence. I raise cattle, four children, try to practice law in this area.

I am also chief executive officer and what is known as commodore of an organization known as the Lake Oklawaha Navy. And our principal goal is to retain Lake Oklawaha in its present state, barge canal or no canal.

As an attorney, I have been involved in litigation relating to the canal and the lake in excess of 15 years. I have been involved in eminent domain on the State level, I have been involved in eminent domain on the Federal level. I have been involved and remain involved in litigation relating to the canal and its construction and the present injunctive position that we are in.

I take strong opposition to Attorney General Smith's legal opinion that was rendered to you here today. Having been involved in this series of litigations, I can tell you that the majority of what is known as Lake Oklawaha is in the political boundaries of Putnam County, was taken from two principal landowners, one of the successors I did not know would be here, but he is here today. I did not know that our property appraiser would be here, who is here today. I think they will give you some additional information as to the legal status of that lake.

It is my legal opinion that these two parcels that were taken in the initial eminent domain proceedings instituted by the canal authority, the canal authority initially sought only an easement for flooding and navigational purposes of the Cross-Florida Barge Canal. That is what they obtained. In the middle of the litigation when Congress authorized the Corps of Engineers to go into more of a recreation-oriented procedure, the canal authority sought to amend and seek fee simple title to that property. That was denied. That case went as far as the Florida Supreme Court and it remains in that status. The only title that the State of Florida retains to approximately 600 acres and the 300 foot land corridor around the—6,000 acres and the 300 foot land corridor, is to flood and to use for navigational purposes of the Cross-Florida Barge Canal.

I do not know what legal expert can tell you that if that easement ceases that any land will remain in the public domain. It is entirely contrary to my knowledge of the law, and I would request and urge this committee, before it takes such a drastic action as deauthorization, that you do thoroughly study that legal issue because I think that the attorney general of the State of Florida is erroneous in his opinion.

That concludes my statement.

Mr. Roe. Mr. Johnson.

TESTIMONY OF EDGAR JOHNSON

Mr. Johnson. Thank you.

We all recognize the State of Florida here, and the blue marks were made by crayon, I made them. So if they are not exactly accurate according to the Corps of Engineers' maps, I plead guilty to that to start with. OK?

Now this is the Okeechobee Waterway which was mentioned earlier, and here is the Atlantic intracoastal, which goes from Key West on north along the east coast on up to New Jersey. And then the west coast intracoastal goes up to Anclote Key off of Tarpon Springs north of Tampa and there it ends. And then the gulf intracoastal waterway starts at Carrabelle and goes westerly over into Alabama and Mississippi and on to the Mexican border.

This dotted red line is the other half of the missing link. There are two parts of the missing link. That is one of them. This one, the barge canal, is the other one. And the blue portion of the barge canal has been completed, or relatively completed. The red marks have not been completed and that is what is to be done next I understand.

Someone was wondering what these small blue dots are that represents the approximate route of one of the 25 other routes that were originally surveyed by the Corps of Engineers as a possible route to get from the Atlantic to the gulf.

Here you see 26,000 miles of waterways, of navigable waterways where the controlling depth is no more than 12 feet, I think. Generally speaking it is that. Upstream on some of the rivers, it is 9 feet.

But now I have a magazine, the Reader's Digest, and I am going to tell you something about it in a minute, but it talks about a trip on the Atlantic Intracoastal Waterway that was recently made and of course it goes from Key West to Trenton, NJ.

About 100 years ago, there was a canal across New Jersey over to the vicinity of New York Harbor and they filled it in after the railroads came in to being. At any rate, they kind of interrupted the waterways then.

You can see from the solid lines that we have a complete system except for this missing link in Florida and one in New Jersey and until recently one in Alabama and Mississippi known as the Tenn-Tom, the Tennessee-Tombigbee Waterway, which has just been finished and through which traffic is now moving. This shortens the trip from the confluence of the Ohio and the Mississippi to Mobile by over 700 miles. Going 700 miles takes a lot of time and burns up a lot of fuel. So if you can shorten the trip, you are going to save money.

The current updating of the 1977 study of the feasibility of the Cross Florida Barge Canal now in progress by the U.S. Army Corps of Engineers should be completed and reviewed by your committee. It should also be reviewed by the people in this part of Florida before any thought should be given to the subject of the proposed deauthorization. The timing is wrong to consider any deauthorization bill now.

It seems that the report on the study will be made during the next few months, the study that is now underway. Let us not throw out the baby with the bath water just to get rid of a problem that some people do not want to face. Some of the people here today said the canal keeps on going and it keeps on going. Well, it is about to end. The study is going to show that the canal is feasible. Let us see what the report says and then go ahead one way or the other.

Anyone who wants to deauthorize now must be afraid of what the study findings will show. There have been several people who have written letters to the editor of several papers saying that. And one of them, is identified in the clipping that I gave the gentleman.

The real issue though is whether the Florida aquifer would be damaged by the canal if it should be finished. In other words, we have a number of issues but what they are are layers to the onion. When you peel off the outer layers of the onion, you are going to get to the part that has the flavor to it, and that is the question about water.

And I live in Ocala and I drink the water in Ocala, and I do not want the water for me or my family to be damaged by any accident in the canal. The U.S. Army Corps of Engineers, who have available just about every engineering firm and geologist as consultants in the whole United States when needed, are the biggest and best engineering firm in the world. They have repeatedly stated that they have experience handling the same kinds of problems elsewhere that appear here. If they cannot fix it, I do not want it either, because I live here and drink the water here. But they can fix it, they can handle it. The answer is to build the canal and do everything necessary as problems arise, and not open the waterway to traffic until that is assured.

That is a simple solution. If the study shows the project is feasible, which it is going to do, why not give the Corps of Engineers a mandate. Say you shall not let any water that anybody proposes to drink be messed up in any way that is going to make them sick; and they can do it.

The Tennessee-Tombigbee Waterway in Alabama and Mississippi has just been completed and opened to traffic. This fact will add immensely to the benefits available from the Cross-Florida Barge Canal.

The savings available by shipping coal from southern Illinois to Florida without transshipment will be enormous, around $100 million a year. Where did I get that figure? Here is where I got it. Seminole Electric said that if the missing link were in place and if the coal should be loaded on the same barge in southern Illinois that unloads it at their dock at Palatka without transshipment being necessary, they would save at least $3 a ton. They are using about 3½ million tons a year, which is about $10 million a year for that one electric utility. In a conference with the gentleman who is in charge of traffic and fuel for Florida Power & Light Co. 2½ years ago in Miami, he told me that within 5 years the electric utilities which were then using coal and which were coming on line as coal users, were going to be in excess of 50 million tons a year.

Let us say they only save $2 a ton, that is $100 million a year. That is where I got the figure.

Completion of our national waterway system by constructing the barge canal and the missing link between Carrabelle and Anclote Key will make it possible for almost any small boat owner to go from Chicago to Tampa to Miami to Charleston to Washington, DC, to New York City to Erie, PA, and back on to Chicago safely stopping at boatels along the way.

I have been to the boatels but I drove a car and pulled up in the front and I looked out the window—at Appalachicola—looked out the window of my motel and here was a dock and some yachts and some 17-foot boats there too. They had come by water, I came by auto.

Now regarding national defense, over 50 American ships were sunk by German submarines in Florida waters during World War II, with many lives being lost as Governor Bryant told you, and many thousands of tons of cargo lost from the ships. None of this had to be. If the barge canal had been in place then, those cargoes would have gone by barge away from the dangers of the open sea.

By the way, Congressman Shaw indicated a common misunderstanding of what is meant by the defense values of the canal. Of course, there are not going to be any war ships going through the canal. Nobody has ever said there would be. But over half of the deep sea shipping from New Orleans and Mobile and Pensacola and Galveston goes to our east coast, New York and up and down the Atlantic coast. That is where the safety factor comes in and that is where we do not lose the backup to our servicemen in case of war.

If the barge canal had been in place, these cargoes would have gone by barge away from the dangers of the open sea. Key West is only about 90 miles from Havana, Cuba. So I think that recent events in the Caribbean indicate that we should give some consideration to that.

A substantial amount of the right-of-way was obtained by easement with the owners of the land keeping ownership of title to the land. The Florida attorney general has given an opinion, as he stated here earlier, that this should be no problem. However, as an attorney, I am not alone in my opinion, as already indicated, that if any of these people who granted easements for construction of a barge canal should attempt to get their land back after deauthorization, they might be successful, with the result that we would lose Lake Oklawaha. And you know, I do not care how big they are or how many landowners there are, all it takes is one landowner owing 5 acres, say, of land that wins in the suit that causes the drawdown. All you have got to do is lose one suit.

The grantors of the easements have not been parties—this has not been mentioned—the grantors of these easements have not been parties to those things which have happened about the barge canal since they signed the easements. They signed them, they got their money and they are just sitting back waiting.

The Governor and a couple of other people indicated all of Florida was against the canal. Well there is still a lot of support for construction and many people who are neither for nor against it.

I have filed several items with the reporter, and I want to file these two additional ones. One of them is the April 1985 issue of Reader's Digest. The article, "Cruising the inland waterway" on page 172, I would like to invite you to read that. Also, the February 1981 issue of the National Geographic magazine which has two interesting articles. One of them is on page 145 and the title is "Where oil and wildlife mix". It refers to the Gulf Intracoastal Waterway and an area in the Aransas Wildlife Refuge where the whooping cranes live and walk along and drink water out of the Gulf Intracoastal Waterway. The other article is the "Seething Caribbean" on page 244. These articles are germane to the subject at hand. I think we have got to get the study finished before any consideration is given to deauthorization.

Mr. ROE. I thank you, Mr. Johnson.

Mr. Pritchard please.

Mr. CHAPPELL. Mr. Chairman, may I suggest a little change of order on this. May I be permitted to ask Mr. Odom a question first?

Mr. ROE. Well what I am watching with my good eye and I only have one good eye left, is that we are fighting time desperately now and I find it to be—I attended a hearing one time, I am going to indulge myself, when I came down from New Jersey to go to Washington to testify, and we prepared mightily for 3 days. When we got to the congressional hearing there were two members there. They gave us 1 minute and then we were summarily dismissed. I felt at the time as a citizen that that was not the way my Government should be working and I made a vow—I get criticized sometimes by my dear colleague because they say that I have too much patience. By the same token, if you miss the damn plane, you were good enough to be here and to wait us out, and I am going to stay if it takes all night so you have a chance to make your presentation.

Having said that, Mr. Chappell, I would like to hear from Mr. Pritchard.

Mr. **CHAPPELL**. The only reason I suggested that, Mr. Chairman, was I invited him to come and respond to questions, not to make a statement, and the same thing with Mr. Odom.

Mr. **ROE**. We will be calling on him in just 1 minute.

TESTIMONY OF LARRY PRITCHARD

Mr. **PRITCHARD**. I will be brief. Gentlemen, I will tell you this, my name is Larry Pritchard, I am a property appraiser for Putnam County, in other jurisdictions that may be known as tax assessor. I did not come to this meeting today intending to speak and I am not here as an advocate of the canal, nor am I here as an opponent but I am very interested in land titles. I believe my local responsibilities here in Putnam County require that I be aware of the status of land and how land should be assessed. I think that since you have discussed that today, it would be appropriate to alert you to the fact that in the case of lands which are taken by easement and where the underlying fee title remains in the hands of the grantor that Florida law requires those lands be returned for property assessment and in the case of Putnam County, several hundred—I do not have the exact count, I have heard the estimate of 6,000 or 7,000 acres mentioned here—but I am here to assure you that those lands are on the tax rolls and are paying ad valorem taxes here in Putnam County, and therefore it would perhaps be relevant for you to be aware of the fact that those people do have a continuing interest in those lands and those lands have changed hands in many cases several times on the public records.

Mr. **ROE**. Would you make that clearer for the record? Are you saying that those where there are easement rights of way, that they are still being assessed and taxed for them albeit the point of view that they have given up in effect part of their title to it?

Mr. **PRITCHARD**. That is correct.

Mr. **ROE**. So what you are saying is that there is a ratable involved where a lot of those easements are involved, as far as the counties are concerned.

Mr. **PRITCHARD**. As far as the counties are concerned, the amount of tax money is perhaps not significant, but I think it is important that you be aware of the fact that those owners are paying taxes on those lands. I went so far in perhaps an analagous case dealing with a power line easement of requesting an opinion from the attorney general as to whether the underlying fee or the holder of the easement was subject to ad valorem taxes, in that case neither was a governing body. And the opinion from the attorney general was that the holder of the underlying fee was subject to ad valorem taxation and that is the method by which we have proceeded here in Putnam County.

Mr. **STANGELAND**. May I pursue that just briefly?

Mr. **Roe.** Yes.

Mr. **Stangeland.** If a man has given up a water easement and been paid for that water easement and that land now is flooded, so he has lost his use of that land, he is still paying ad valorem taxes on it?

Mr. **Pritchard.** Our law requires that the land be assessed in terms of its present use and if the present use is that much impaired, which obviously it is, then obviously the amount of taxes—the assessment and the taxes would be very low, but in fact in the present case that land which is flooded is being assessed at a rate of about $10 an acre, so we are not talking about a large amount of money, but the fact remains that they are—the lands are being returned for assessment and the taxes are being paid on those lands.

Mr. **Chappell.** What would the tax be on a $10 value per year?

Mr. **Pritchard.** Well of course, we are dealing with several hundreds of acres, but the millage rate in Putnam County is approximately 14 mills, so $14 on the 1,000.

Mr. **Stangeland.** Thank you.

Mr. **Pritchard.** That is all I have to say.

Mr. **Stangeland.** I appreciate that. That is very important.

Mr. **Roe.** Mr. Odom, please.

TESTIMONY OF MR. ODOM

Mr. **Odom.** Mr. Chairman, committee members, I really have no business here, but I happen to own about 4,000 of those acres out of the 7,600. And really, I want to make a question instead of testifying and just ask you if I have been making a mistake to pay those taxes. [Laughter.]

Mr. **Roe.** I think you ought to hang in there just a little longer. You are one of those folks that had 4,000 acres you say?

Mr. **Odom.** Yes, sir.

Mr. **Roe.** Inundated at the moment—flooded at the moment?

Mr. **Odom.** Some of it is flooded, some of it is not.

Mr. **Roe.** And you are still paying taxes on it?

Mr. **Odom.** Yes, sir.

Mr. **Roe.** I do not want to advise you because I am not your attorney, but I would suggest you wait a little bit while we try to iron this thing out.

Would Mr. Odom care to tell us how much taxes he pays on those 4,000 acres?

Mr. **Odom.** Really we own about 7,800 acres and our taxes are approximately $2 an acre.

Mr. **Stangeland.** Two dollars an acre on those——

Mr. **Odom.** On all of it. In other words, I do not have it broken down.

Mr. **Stangeland.** I see. OK. In other words, you own land besides that 4,000.

Mr. **Odom.** It is all in one—contiguous.

Mr. **Roe.** Will the gentleman yield?

Mr. **Elliott.** Yes, sir.

Voice. May I inquire for just a moment, why do you pay the taxes? Why do you not just let it escheat?

Mr. **Odom**. Well we owned the fee simple title to it and as far as I am concerned, we own it and if you all let the water down——

Voice. But here you have a property that is under water, no use to you on the surface and yet you are willing to pay taxes. If you refused to pay the taxes, they will take your fee.

Mr. **Odom**. They will take the land.

Voice. What have you got to lose?

Mr. **Odom**. Well our taxes are not specifically on that, our taxes is the total.

Mr. **Roe**. Part of it is flooded and part of it is not.

Mr. Elliott.

TESTIMONY OF RALPH E. ELLIOTT

Mr. **Elliott**. Mr. Chairman, my name is Ralph Elliott, I am an attorney in Jacksonville and from May 1967 until June 1979, I was the general counsel for the canal authority which acquired these lands.

During that period of time I have been to battle many times on this canal subject and controversy in the courts and elsewhere. One of the answers to the question from the staff to Mr. Odom was why does he pay the taxes. The main answer is that the canal authority took a 300 foot collar from around the proposed reservoirs before it was flooded in addition to the area that was to be flooded. That land is very valuable today. If the lake is ever drained, he is going to have one heck of a piece of valuable property. The other aspect is that we have one 300 acre tract of land around Lake Oklawaha where the recreational site was constructed. You probably went down to the Rodman recreational site. We had an easement interest only. And were asked to go back in and get fee title. This will give you an indication perhaps of what the difference might be. We had to try the case three times before—we had a hung jury the first time, they could not make up their minds. The second time the jury came in awarding about the same amount as we had to pay for the easement initially and the third time the court awarded twice as much. I kept getting worse, I guess. But that is some indication, I believe.

I am with Mr. Fields, I disagree completely with the Governor, and the attorney general on whether or not they can continue the public use of these lands for another purpose other than the Cross-Florida Barge Canal. We had to fight tooth and nail to get title to these lands and the courts all the way to the Florida Supreme Court were reluctant to give us fee title. They did give us easements which very specifically spelled out for canal purposes only, and under these circumstances I believe that there will have to be an additional acquisition of those easement interests if there is going to be an additional public interest. That is why you have lawyers, nobody ever agrees with the other one, and that is my opinion from how I have had to go through the State courts in condemnation.

I would like to talk for just a moment about the litigation that took place back in 1973. The Environmental Defense Fund filed a suit in Washington against the Secretary of Army to halt this project. The attorney general and the Corps of Engineers had the same interest as the canal authority, so we did not intervene in the lawsuit.

In January 1971 I went to Washington because there was a hearing coming up as to whether or not an injunction would be entered. When I got there—I was working with the attorney general's Office. Nixon made the announcement that he was stopping construction of this project. All of a sudden, I could not talk with the attorney general any more and we immediately intervened in the suit in Washington and came back down here and filed another suit challenging the constitutionality of the President's action.

You all know that the court ruled in that case that Nixon had exceeded his constitutional authority based upon the separation of powers whereby the Congress has sole authority under matters involving navigation under the commerce clause. In that trial, it was a 7-week trial, every one of these environmental issues were heard. The environmentalists had their experts on the stand and we had to get experts from all over the country. We could not get any in Florida because they were all on the side of the environmentalists.

We had three geohydrologists that testified. Two of those geohydrologists, one was a Florida State geologist, had been studying this project and the geology of it, geohydrology of it, for thirty years. The other one was a State of Alabama geologist who had previously been the Chief of the Groundwater Section of the USGS in Washington. Both of them and a third one who had been more recently involved in the project, all three of them, testified that in their opinion there is no reasonable scientific probability for any damage to the aquifer by the construction operation and maintenance of the project.

None of the folks who have testified for the environmentalists here today testified at that trial—none of them. You know there is a little difference when you are testifying under oath subject to cross examination than just at a hearing. I am sure you all appreciate that.

The reason this issue came up, EDF had in its complaint a charge that the Chief of Engineers in his letter to Congress, to the Rivers and Harbors Committee, of 1942 requesting authorization, that studies revealed that there would be no damage to the groundwater supply of Florida by the construction of this project or operation of the project. EDF charged that he had lied to the Congress because there would be damage to the aquifer.

The court, after hearing all this testimony, found as a matter of law, that the Chief of Engineers had adequate grounds to make the statement that he had made to the Congress and dismissed that charge. And I still hear the same charges over and over again, even after seven weeks of testimony. It is very frustrating.

The last thing—I am sorry that Congressman MacKay is not here. I have known Buddy MacKay a long time, but there came a time in our acquisition program where the Canal Authority took, by condemnation, 65 acres of a 600 acre tract of Mr. MacKay's property—at least it was in the name of Kenneth H. MacKay, Jr., I think that is his name.

The Congressman—not then—he was not in the State legislature then, represented the landowner, himself, I believe in that trial and was awarded the exact amount that our appraiser testified to.

And since that time I have not even been able to talk to Congressman MacKay about this project.

I feel that he has a serious conflict of interest in his effort to deauthorize this project because that 65 acres is in an area in the Summit Reach which will have no use for the preservation of the Oklawaha River Valley or the Withlacoochee Valley and he will be one of those owners who will be allowed to get that land back. And I think that constitutes a clear violation of the conflict of laws—ethics.

One last thing, and this has been touched on before. Governor Askew, when he left office—after 8 years—was asked what the problem was with the Cross-Florida Barge Canal, the real problem. He said well I really believe it was just competition between two different modes of transportation, the rails and water. And I am sure you all have heard these arguments about the need for competition between rail and water time and again and you know the effect of that competition on railways.

I appreciate the opportunity to come and speak to you today and of course you have had a long day, I have been sitting here listening to all of it too. Thank you.

Mr. Shaw. Mr. Chairman, could I say something? I think something should be said. I think Mr. Elliott's remark with regard to our colleague Mr. MacKay is unfortunate and certainly not true, and certainly should not be said in his absence. Unless Mr. Elliott, you can give us any type of absolute assurance that that land is going back to Mr. MacKay, and you even cast doubt as to whether that is him or not. I think that was a little rough and hitting below the cuff. Mr. MacKay is totally convinced that the condemning bodies are going to retain title to that land and I do not know whether that land is his or was his or is in his family or anything else, and you indicate some question in your mind as to whether that is true or not.

Also, without the order of taking so that anyone could give a straightforward legal opinion that there would be a reverter in the event of the abandonment of the easement, I think your remark is unnecessary and I might say I think somewhat unprofessional.

Mr. Elliott. May I say one thing in response? I am not going to argue about it. There is no question that it was Mr. MacKay's property or his family property and there is no question that the State statute regarding the deauthorization will allow some landowners to get their land back, it will be offered back to them to purchase it back, and this is in the category of lands that are most likely to be offered back. That is all I am saying.

Mr. Roe. If the gentleman will yield. I think that it has been a long day, and I might respectfully suggest the following to Mr. Elliott, that only as late as last evening, Mr. MacKay has taken a very strong position as far as he is concerned that all the land should be held in public ownership and the issue of any reverter has not even been discussed.

I think one thing has been lost, and I do want to hear Mr. Skipper and Mr. Evans before we go to our questions, but I think one question may very readily be lost. You know, we probably hear more cases throughout this country of the most complex nature than most of our fellow citizens here could possibly even realize. It is amazing if you are there a year or two, you have one thing to learn in the Congress; if you are there 6 or 7 years you think you have some of the answers and then you realize how much you do not know. As time goes on, you realize how much you do not know and you wonder as to your own adequacies as to whether or not you can adjudicate or even have the wisdom to understand, let alone make a decision.

But there is one point that has been lost over the day, in my judgment, as Congress decides this issue. At one point it was very clear to me, before I even came to this hearing, that it was a frightfully complicated issue to begin with, and we have done a lot of studying ourselves, we have read a lot of your briefs and so forth.

I think the second point is that the simplicity of deauthorization, just a stroke of the pen and all is done and finished and everybody is going to be made whole and the thing is going to be solved, is a great fallacy in judgment because it is going to take very carefully crafted and well thought out language to be able to cure the many problems that have been raised today by so many members in so many areas.

I think I will let it go for the moment, but I assure you that from all that we have been able to ascertain that Mr. MacKay's approach has been one of the—basically the highest order. I do not think that he is looking in any way to be enriched in that nature and I know you did not mean that.

So we have a lot of work to do yet so we can unravel that situation.

Mr. Skipper please.

TESTIMONY OF MR. SKIPPER

Mr. **Skipper**. Thank you, Mr. Roe. Before I start, I would like to say to you, sir, that I want to compliment you on the manner in which you have conducted this meeting today. I have been here since you arrived at 9:30 and heard the gavel start and you have called down both sides and I commend you for an unbiased, unprejudiced administration of the meeting.

I am a fourth-generation Floridian. I have lived in Ocala for over 60 years and I have been very active in local civic affairs. I am a past president of the Ocala/Marion County Chamber of Commerce. I am incoming chairman of the Industrial Development Council. I am still on the board of directors of the chamber of commerce.

I support the completion of the barge canal because I feel that it will be of good economic benefit not only to Florida, but to all of the eastern part of the United States because of the inland waterway connecting links. Not only would that be of benefit, but we have already covered practically everything that can be said; water retention is certainly an important factor these days; recreational benefits that you saw as you toured the facility at the Rodman Pool certainly are to be—as our population grows and grows so rapidly, we are going to need more and more facilities to service the citizens of Florida.

One factor that has been not touched on too much was the flood control aspects of the completion of this canal. The Southwest Water Management District cleared some areas on the public part of the Oklawaha several years ago and long ago the Corps of Engineers channeled the upper Oklawaha, back in the thirties, for better movement of water and flood control. This now goes downriver—not down because it is moving north, but to the Shiresbury Bridge.

Then it becomes the beautiful scenic river that you saw and it certainly is an attractive thing, but it does not move water rapidly. There are two dams in the Oklawaha system going upstream to Lake Apopka, Lake Dora, Lake Harris; all these emptying into Lake Eustis. Lake Eustis—between Lake Eustis and Lake Griffin in Lake County, there is a dam at Haines Creek and then out of Lake Griffin on to the north you come to Moss Bluff. When we in Marion County need water badly, they do too, and consequently very little comes through those dams. But they get more than they want and we have got more than we want, they give us all that they can and we get flooding conditions.

It would be a great benefit to the citizens of Marion County and I think to the entire State to have this project completed, and that would be only a byproduct of the many benefits that will be coming our way because of the industrial development and the availability of low-cost barge traffic.

I thank you for your time, and I know it is late and I will conclude my remarks with that. I will just leave the letter with the officer.

Mr. **Roe**. Mr. Evans.

TESTIMONY OF GILES EVANS

Mr. **Evans**. Thank you, Mr. Chairman. I am Giles Evans of Jacksonville, FL. For 19½ years I was the manager of the canal authority and most of my duties have been with acquiring lands for the right-of-way, on which I appeared in court constantly as a witness of what we are going to do and why we are going to do it and how we are going to do it. The remainder of my time was devoted mostly to litigation as Mr. Elliott has alluded to.

First, I would like to say that it is very unfortunate that this project was named the Cross-Florida Barge Canal. It started off being called the Gulf-Atlantic Waterway or the Gulf-Atlantic section of the Intracoastal Waterway. I think Mr. Stangeland pointed out last year in his argument—debate in the House, on the vote, that this was a national project, that the Nation and not Florida would be deciding what to do with it.

I have just come back personally from taking an outboard motor trip by trailer car from Jacksonville to Decatur, AL, with one other person in my boat and we moved from Decatur to Pickwick and from Pickwick to Columbus, MS, to attend the ceremonies at which some of your colleagues were present. From Columbus—incidentally, Mr. Stangeland, one of the biggest boats I met just before I got to Columbus, was leaving before the celebration, was a boat bound from Lauderdale by way of Lake Okeechobee to Minneapolis or St. Paul.

But we were there for the dedication at which your colleagues spoke and then went on down to Demopolis and thence up the Black Warrior to the vicinity of Birmingham. We saw a mature waterway like the Warrior that was full of coal barges going down or up, recreational fishing. The Tenn-Tom is pretty lean right now because it is a new waterway. We saw several tolls on it. The Tennessee, I saw a number of tolls on it, but there were not more than two or three more than we saw on the Tenn-Tom in the course of 3 or 4 days.

I thought of the magnificent job the corps had done in turning out a waterway which cut through a divide which is 40 miles long and cut down 175 feet deep. They had water resource problems but they have restored the land. I hope that some of your committee will go see it if you have not already.

But what impressed me was the remarks of some of your colleagues to some of the Governors that were present. They were saying we are looking at this resource as an investment in America's future. America needs a first-class inland waterway as well as a first-class railroad and anything else, and having the barge canal finished is one element in it.

Now with those philosophical dissertations, I would like to touch on a few things that have been mentioned today. With regard to the defense aspect, this kind of straightened out, this was an anti-submarine, it was envisioned taking oil and other commodities through by barge rather than exposing them to the submarines. And if you go back and look at the testimony the corps gave in the 1940 hearings, you will find that the reason that missing link Mr. Johnson was talking about in the instep of Florida was left there was because it was testified that the waters were so shallow, the grade is about 1 foot a mile as you go offshore, that no submarine could come in to encroach on the 9- or 10-foot depth of the barge traffic that transmitted that area. Furthermore, the storms and the weather made it impossible except for a few days a year. For these reasons and those reasons alone, they did not recommend extending—making an authorization project out of that loop.

We do have barges that are called load line as Mr. Bunton mentioned or river gulf barges, the configuration of these barges is the same as those you see on the inland barges, but they are designated capable of transiting the open gulf. And those the barges on which the corps economic study was predicated in 1976 and 1977.

There was a statement made earlier today that there is no local sponsor for the project. The canal authority still exists even though it is made up of the Governor and the cabinet. Also, the canal authority still has a contractual obligation to the U.S. Government to provide the necessary rights-of-way as required. So there is an obligation there, it is not just an escape operation. How they will honor it is another question. There is a contract there, it has been alluded to and recognized in the Florida Supreme Court decisions.

I would like to turn to the aquifer statement. Mr. Johnson, I think, said beautifully that it is like getting all the layers off the onion. In the litigation, we had three of these geohydrologists, one of whom Mr. Elliott mentioned, Mr. Burn, who was a Florida geologist; Dr. Lamaroe, who was an Alabama geologist at that time and Mr. MacKay mentioned Mr. Faulkner. Mr. Faulkner was an employee of the Geological Survey; he did a very exhaustive study and issued it in 1970 under an agreement with the corps, the geohydrology of the Cross-Florida Barge Canal.

He made three conclusions. He said that if the waterway were constructed and operated and maintained in accordance with the corps plan, it should impose no adverse impact on the Florida aquifer and water resources. He said additional studies should be done. I asked Glenn Faulkner at that point—in April, I think it was—I am going to ask you three questions; are you recommending that they defer construction or delay it? No. Do you have sufficient data on which to make your conclusion; he said yes. What further studies do we need; he said we should do some pumping tests to see how tight the actual ground strata is. Those tests were done in the course of the corps' investigating and updating in 1974–76, and they were done by the U.S. Geological Survey.

Mr. Faulkner testified at the trial—and I want to belabor this because it has been skipped over, it takes a little time to listen to it, to understand what was said.

Counsel had him on the stand and gave him 19 counties as the center of Florida, starting with Nassau and Duval and running down to Pope and Hernando and Hillsborough. He said Mr. Faulkner, we want you to color in in green any of these counties on which the barge canal can have no effect, ground water or surface water. He colored in all these counties except that four or five along the canal route and eventually he tapered it all down and we had a banana-shaped alignment along the divide cut 2 or 3 miles wide at the most on either side.

He said this is the only—and of course there was some around the periphery of Lake Oklawaha, but this is the only area of Florida that we are going to have any impact from the barge canal. Furthermore, the canal is routed through a saddle system, the ground water rests, you had two mounds north and south, it went through a saddle. As the ground water table was dropping or it had dropped, it dropped in those mounds but you still had the saddle there and the water was pouring generally toward the canal. There were two outflows, one toward Silver Spring and one toward Little Gum Spring over in the western end. Those amounted to a total of about 5½ miles where you could have an outflow as the water table maintained its level, but the rest of it was all inflowing toward you.

It got into the court and finally some of the opposing counsel asked Mr. Lamaroe if he would guess it would cost $40 million to have it grouted. Mr. Lamaroe said I do not know, I am not an engineer, but I would not be surprised one way or the other. He said I am a geohydrologist.

The corps got into the subject of grouting in the court trial, I testified, I was an engineer and I acquired information from the Bureau of Reclamation on one of the big canals out in California. They had just finished paving a 100-mile-long canal wider than the Cross-Florida and about as deep, and they paved it with 2½ inches of concrete because they were moving irrigation water, the same problem of how you stop any outflow. It came out to something on the order of $12 million to pave, using their figures, to pave that outflow area of the Cross-Florida Canal, and the corps already had something like $20 million as a contingency on their Summit construction.

You need to get to the corps and get them to sit down and talk with you in layman's language of just what we are looking at, but there is a lot of who shot John going on about how the pollution is going to go. We examined every waterway in the eastern half of the United States from the New York Water Canal, the Illinois Waterway, upper Ohio, Tennessee, and the others, to see what pollution was taking place from traffic. Most of it occurred—practically all of it occurred at terminals or places where you have junctions or bridges or places where there are prone to be accidents. You do not have it in the ordinary transiting of the project.

We had an allusion to manatees today and how many that have been killed in the lock. Mr. Bowman, who I think guided you yesterday, is fully knowledgeable about that but I think there were only two manatee carcasses. They have not determined how they got killed, but that was about 6 or 7 years ago. Mr. Chappell in questioning Colonel Wisdom pointed out and brought out that you have tolls going through daily from Jacksonville to Sanford right through the manatee preserve on the upper St. Johns. There have been no indications that those tolls have anything to do with killing any manatees because the best measure you can take is to slow down the boat to 9 or 10 miles an hour and those things go about 6 or 7.

Those are just some random thoughts. One other thing, the corps has included in their cost estimate of the recommended construction alternative, they have included all the costs for acquiring whatever additional land would be needed in that upper line.

And finally, lest you think that Oklawaha is a wild river, it was timbered several times before we ever got into the barge canal. Mr. Chappell and others in that area have been on jury duty where you see the old cypress stumps out there 7 and 8 feet thick. They are out there now in what looks like a forest, but it is a second-growth or third-growth forest. There were striations and marks on the aerial photographs in 1962 that ran perpendicular to the river and nobody could tell me what it was, except I finally got hold of the foresters. Those were log skidding trails where they used to take all the cypress timber out of the Oklawaha and skid it out to the river so they can put it onto rafts and take it to Palatka.

It is not a particularly swift river, it does look like it when you are in there, but it is about the same slope and about the same speed or less as the Mississippi River from Cairo to Donaldsonville, LA, you are talking about six-tenths of a foot per mile or something like that, before it was dammed.

The veterans cemetery was mentioned by the Governor I think. The possibility of putting it in the Cross-Florida Barge Canal right-of-way was discussed in the event they resolved it. It was placed in the Withlacoochee State Forest where they originally planned to locate it. I think Mr. Chappell can verify that. So that cemetery is not an issue.

With reference to the billboards, we started in the billboard leasing because it was a way to get money. We needed it and we had a lot of highway crossings. You would be surprised how many advertisers would like to have billboards on these State and county roads and that was one other way of getting money for the canal authority.

Thank you.

Mr. **Roe**. Thank you, Mr. Evans.

Now we are running desperately short of time and I want to have Mr. Barrow's testimony.

Mr. **Barrow**. I would like to ask one question which has come up in a way that I did not know for sure. Someone here may enlighten me on this. Is the Silver River going to be damaged or is it going to be eliminated in any manner when the barge canal goes through, and is the Oklawaha River still going to receive the water from Silver Springs in the same manner that it does now?

Mr. **Roe**. I would think yes.

Mr. **Evans**. Yes, sir; there are going to be pump stations at Silver Springs lock and at Dunnellon lock and under the corps plan it will go on down the river. They have the canal on one side, such as it is, in the canal section of the Tenn-Tom except it would be further up.

Mr. **Barrow**. The reason I asked this question——

Mr. **Roe**. We only have 10 minutes, Mr. Barrow.

Mr. **Barrow**. All right, thank you.

Mr. **Roe**. I do not mean to be rude, sir. Are there any questions? The gentleman from Minnesota.

Mr. **Stangeland**. No; I have no questions, Mr. Chairman. I want to thank this panel, I think it was very enlightening. Well, I guess I do have just one question. Do the laws of Florida prohibit a local taxing unit such as the county board of tax equalization from just not collecting taxes on lands that is totally under easement and inundated with water and for which the usage of the owner has been taken completely away?

Mr. **Elliott**. It seems to me that the property appraiser answered that that is what they are doing and that is what the attorney general said.

Voice. We cannot hear him.

Mr. **Elliott**. I think he answered it by saying that the amount of the assessment was lowered where the land was flooded, so in effect he probably was not paying any tax on that part, it was the collar of land around it that he probably wound up paying taxes on.

Mr. **Shaw**. I can answer that question. The law of the State of Florida requires that land be assessed at its fair market value. There obviously is some fair market value, I guess I would pay 2 or 3 cents an acre for land on the Moon if it were available, even though I do not think I would ever get to it. I am sure Mr. Odom would certainly continue to pay the taxes just in the unlikely event that something would happen and all the water would go away. So Florida law does require that.

Mr. **Stangeland**. No further questions.

Mr. **Roe**. Any further questions?

Mr. **Chappell**. Yes; I would like to ask just one question and I ask it just to point up the fact that there is no agreement even on an attorney's own staff as to what the situation may be. Mr. Pritchard, you say you sought advice as to how to assess these lands underneath Lake Oklawaha?

Mr. **Pritchard**. No; what I alluded to was that I recently received an opinion from the attorney general where a powerline company had created a powerline corridor and gone through and taken easements and basically used up all the value in the land under that corridor and the question was who gets the tax bill, and the answer that came back from the attorney general's office was that the power company was not liable for the ad valorem tax bill but rather the holder of the underlying fee. I thought perhaps there was an analagous situation between that situation and Lake Oklawaha—perhaps there is and perhaps there is not.

Mr. ROE. Well I want to thank the panel for their splendid testimony. It has been very helpful. We are rushing, Mr. Johnson, we are not going to get back if we do not.

Mr. JOHNSON. Half a minute.

Mr. ROE. Half a minute.

Mr. JOHNSON. Dr. Kaufmann is a biologist and it was my impression that during the time he was talking that he demonstrated his own knowledge about every area of expertise there is in any field, and I think that any of us—we have to be taken with a grain of salt as to those things we really do not know much about and those that we do.

Mr. ROE. I agree with that. Members of Congress have to be taken with a grain of salt anyway.

I want to make one comment before we close and I understand Mr. Chappell has a comment he wishes to make first.

Mr. CHAPPELL. Mr. Chairman, I want to take this opportunity to thank you and Mr. Stangeland and my good colleague from Florida Mr. Shaw, and your staff, for the very fine courtesies which you have extended the people of this area to give their ideas on this Cross-Florida Barge Canal. You certainly have had the patience of Job for both sides and for me, and we appreciate that. And we appreciate the deep consideration which you will be making on this project. I do want to say that there is one statement to me that is important and that is we are in this project, as we are in other water projects in this country, investing in America's future. Water projects are so extremely important, particularly transportation projects, in our country.

Now the issue here is not whether we are going to go ahead and complete the canal at this time. But I want to make it clear that my position is that the option ought to be left open, Mr. Chairman, the option for the future. I think all of us agree that the atmosphere is not correct regardless of how we may feel about the canal, the atmosphere is not proper, is not conducive to a completion of the canal at this point. Perhaps the next generation would make a different assessment, perhaps some event will come along that will result in a different assessment. But I think what is important is that we leave the option open, and I believe there are ways of leaving that option partially open and leave the canal authorized until some further decision on better information can be obtained.

The completion of the study is underway and that is going to be coming back to us fairly soon we think and that will give us additional information. There are a lot of legal questions which we are going to have settle in order to make the right determination.

Mr. Chairman, I would certainly like to invite the committee's attention to the testimony of the Corps of Engineers and also to the specifics of its study. I believe that as an option—as an option for the future, the case has been made for completion, but again that is not our issue here as I see it. I am not about to ask for money right now to complete the Cross-Florida Barge Canal, but I am asking for the retention of that option in the future. I want to express may appreciation again to all of you.

Mr. ROE. The gentleman from Florida.

Mr. SHAW. Thank you, Mr. Chairman. I would like to thank the people of Putnam County and I must say that I was a little concerned and nervous about going into the heart of Bill Chappell's district to get a fair unbiased look at the canal. I must say though that the program has been setup for us, the panel of witnesses that we have had today I think have given us an excellent balanced view of where we are, where we have been and what direction we should go. I obviously disagree with my colleague Bill Chappell, but Bill and I have learned a long time ago, you can disagree without being disagreeable. We remain close friends on most issues, we have not changed each other's minds. I feel that as Congressman MacKay does, that there is a certain amount of urgency in the deauthorization of this particular public works project, but out of a mistake of the past can come great benefits for the future, and I think that that great benefit will be felt by the people of the State of Florida with the retention of the public lands which will be ours forever.

There are certain things that we in Government and we as the population on this Earth do not have the right to do and I think some of the things involve such things as this wild river that we were privileged to be on yesterday.

And I would like to thank you, Mr. Chairman and Arlan Stangeland—that is spelled without an "R"—thank you for coming down to Florida and I know that you enjoyed this experience and learned quite a bit from it, as I always do when I come to this part of the state.

Thank you.

Mr. ROE. I want to thank the two gentlemen from Florida; they are obviously from different ends of the spectrum on this issue. You notice that the chairman has had great delicate balance to keep them going in the right direction, but you know when people speak sincerely from their heart on what they believe to be important to their country. We have to respect all of those thoughts and views.

I want to thank them, No. 1, for the hospitality that they have shown to us and I think that No. 2, we want to thank all the people of the county, the Corps of Engineers and all the staff for the splendid arrangements that were made. I will go back to Washington, hopefully tonight, with a much, much more in-depth understanding of the various vicissitudes in the order of magnitude of the problem. Our job as a member of the committee, as you know, myself and Mr. Stangeland, is to translate back to our committee and put into focus those points that we have learned here today and again I want to express our appreciation for your assistance in doing that.

This hearing is closed.

[Whereupon, the subcommittee adjourned at 4:30 p.m.]

[The statements of Mr. Edgar Leo Johnson, Mr. Ralph E. Elliott, Jr., and Mr. David Lee Skipper follows:]

STATEMENT OF EDGAR LEO JOHNSON

The current up-dating of the 1977 study of feasibility of the Cross-Florida Barge Canal, now in progress by the U.S. Army Corps of Engineers, should be completed and reviewed by your Committee and also reviewed by the people in this part of Florida, before any thought should be given to the subject of the proposed deauthorization. The timing is wrong to consider any deauthorization bill now.

It seems that the report on the study will be made during the next few months. Let's don't "throw out the baby with the bath water". Let's see what the report says, and then go ahead, one way or the other. Anyone who wants to deauthorize *now* must be afraid of what the Study findings will show.

The real issue here is whether the Floridan Aquifer would be damaged by the Canal, if it should be finished. The U.S. Army Corps of Engineers, who have available just about every engineering firm and geologist as consultants, when needed, are the biggest and best engineering firm in the World! They have repeatedly stated that they have experience handling the same kinds of problems elsewhere that appear here. If they can't fix it, I don't want it either, because I live here and drink the water here. But they can handle it. The answer is to build it and do everything necessary as problems arise, and not open the waterway for traffic until that is assured.

The Tennessee-Tombigbee Waterway, in Alabama and Mississippi has just been completed and opened to traffic. This fact will add immensely to the benefits available from the Cross Florida Barge Canal. The Tenn-Tom will save about 700 miles off the long route from Cairo, Illinois, to Mobile. The savings available by shipping coal from Southern Illinois to Florida, without trans-shipment will be enormous, around $100,000,000 a year or more.

Completion of our national waterways system by constructing the Barge Canal and then the Missing Link, between Carrabelle and Anclote Key will make it possible for almost any small boat owner to go from Chicago to Tampa, to Miami, to Charleston, to Washington, D.C., to New York City, to Erie, Pa., to Chicago, safely, stopping at boatels along the way.

Also, regarding National Defense, over 50 American ships were sunk by German submarines in Florida waters during World War II, with many lives being lost and many thousands of tons of cargo lost with the ships. None of this had to be. If the Barge Canal had been in place then, these cargoes would have gone by barge, away from the dangers of the open sea. Key West is only about 90 miles from Havana, Cuba, and shipping through the Straits of Florida will once again be extremely hazardous if our cold war with the Soviets should ever warm up.

A substantial amount of the canal right-of-way was obtained by easement, with the owners of the land keeping ownership of the title to the land. The Florida Attorney General has given an opinion that this should be no problem. But I, as an attorney am not alone in my opinion that if any of these people who granted easements for construction of a barge canal should attempt to get their land back after deauthorization, they might be successful, with the result that we would lose Lake Oklawaha. The grantors of the easements have not been parties to things which have happened since they signed the easements

There is still support for resuming construction, and many people are neither for nor against it. This controversy is not like a local bill controversy. This project is important nationally.

Items to be filed:

(1) Reader's Digest, April, 1985, issue, page 172, entitled "Cruising the Inland Waterway."

(2) National Geographic, February, 1981, issue, page 145, entitled "Where Oil and Wildlife Mix", and page 244, entitled "The Seething Caribbean."

(3) Statement of Dale Miller, President of the Gulf Intracoastal Canal Association, dated May 19, 1983.

(4) Resolution of Withlacoochee Regional Planning Council, dated May 5, 1983, opposing deauthorization prior to completion of the study which is underway by the Corps of Engineers.

Mr. Dale Miller has approved my filing his statement at this hearing, and Mr. Eugene Poole, Chairman of the Planning Council, has approved my filing of the resolution, which Mr. Poole told me by telephone has not been rescinded. Mr. Poole is also president of the Florida Voters League, which has endorsed construction of the canal and opposes deauthorization.

(5) Resolution of the Cross Florida Barge Canal Coalition, for the Canal.

(6) List of some of the Cross Florida Barge Canal Supporters.

(7) Copy of Map of National Waterways Map.

(8) Copy of map of the Gulf of Mexico and the Caribbean Sea.

(9) Copy of map of Florida Waterways System.

(10) Copy of Mrs. Marjorie Carr's 1982 Cross Florida Barge Canal Update, in which she said, "Once Rodman Dam is removed, the flooded 16-mile section will restore itself in a relatively short time.

(11) Brochure entitled "Cross Florida Barge Canal", printed in about 1970.

(12) Clipping from the Ocala Star Banner, dated August 31, 1977, entitled 'SAVE THE LAKES' Movement Gets Wide Support.

(13) Letters to the editor of the Ocala Star Banner by O.G. Fulford, David P. Kelly, and two letters to the Star Banner by Major Holbrook Scott.

[From Reader's Digest, April 1985]

CRUISING THE INLAND WATERWAY

(By Andrew Jones)

On a balmy April morning in Savannah, Ga., my wife, Janet, and I walked smack into a battery of U.S. Army howitzers firing a barrage of blank cartridges over the Savannah River. Along with spent cordite, startled pigeons and dogs howling, there was music in the air: the rousing strains of Tchaikovsky's "1812 Overture." We had come upon an outdoor rehearsal for the evening performance of the Savannah Symphony Orchestra, and the gun crew was providing sound effects for the grand finale.

We were there on a cruise up the Intracoastal Waterway, a series of canals stitching together rivers, estuaries and larger bodies of water along the Eastern Seaboard. Savannah typified the vitality and energy that we had seen in towns and cities along the way.

Janet and I—and our two dachshunds, Fred and Oliver—were following the spring north in our 32-foot powerboat, *Halcyon*. We began in downtown Ft. Lauderdale at Mile 1065 (our distance from Norfolk). The "Venice of America" is, from the boatman's vantage, a canyon of condominiums sliced by 165 miles of navigable canals. These tidal streets were jammed with small boats and sudden surprises—marinas, drawbridges, statuary. The ship's log tells the story: "Got yelled at to slow down. We did. Came around curve to confront a pink-concrete bathing beauty reclining on canal bulkhead. Signs advise be on lookout for manatees loafing beneath surface. Around another bend, fellow fishing from his lawn. Too late to steer clear, cut his line with propeller. Turned boat in tight circle, dug new lure out of our tackle box, tossed it at his feet. He waved appreciation."

In the next few hours the ICW began to show its natural loveliness. North of Palm Beach, waterfront homes gave way to mangrove swamps and stretches of seacoast on the right. In the expanse of Hobe Sound we met barges pushed by tugs. During World War II, barges moved hundreds of thousands of tons of oil and gasoline along the ICW to evade German U-boats offshore. Now, above the wildlife refuge on our left, we saw wood ibises, laughing gulls, graceful egrets and sturdy oyster catchers.

North of Hobe Sound we were back in skinny water and close chart work, threading between pairs of numbered red and green markers, keeping track of each gate and following the compass to the next. The waterway is maintained by the Army Corps of Engineers and the navigational aids are the responsibility of the Coast Guard. The charts are excellent, with the ICW delineated by a thin magenta line.

Anyone riding the Ditch will have plenty of company. In 1984 more than 12,000 vessels—including cruise ships, and pleasure and fishing boats—passed through the Virginia Locks at Great Bridge and along the Dismal Swamp; commercial shipments of pulpwood, petroleum, steel, concrete, gravel and sand were close to a million tons.

One afternoon in Vero Beach a tornado watch was posted. We made it to an anchorage just as the wind began driving in scudding clouds and warm, drenching rain. Soon the rain slashed into our cove almost horizontally. The combination of wind and thunder drowned out the voices on the radio weather frequency.

Finally the wind slackened and the thunderheads moved out to sea. We ate supper, confident that calm would soon be restored. One lives very close to the elements on a small boat, and a clearing sky after a line squall is cause for jubilation.

Next morning, as we powered north past the enormous NASA facilities at Cape Canaveral, the water around *Halcyon* erupted in a froth of mullet trying to escape a school of porpoises. Instantly the air was full of pelicans doing their skull-cracking power dives and flopping around in the roil to fill their pouches with fish. Ospreys were active at the fringes of the melee. These majestic birds, only recently in decline, have come back strong and are building nests on battery boxes atop ICW buoys. Coast Guardsmen are trying out boxes with access doors in the sides and bottoms so they can change batteries without disturbing the nestlings.

At Mile 845 we had ocean in view beyond Ponce de Leon Inlet. Ahead was St. Augustine, established by Spaniards in 1565, the oldest city in the United States. Farther up the coast was Fernandina Beach, today recognized as the birthplace of the modern shrimp industry, but formerly a port frequented by the most notorious of the peg-leg-and-eye-patch set. Then we were out of Florida and into the long string of barrier islands along the Georgia seaboard.

On Cumberland Island, today mostly a National Seashore, we walked through the live-oak forest and drove the beaches with Park Service ranger Don Hooker. Our two hours in this enchanted environment engendered a change in our emotional disposition that would be with us for the rest of the trip. It might have begun with the gnarled and gnomish live oaks, thickly hung with Spanish moss, that made a woodland as dark and cool as a mountain tunnel, and many times more eerie. Or it might have started with the horses.

We were on the beach when they appeared—three stallions and two mares, each with a foal. These feral animals are descendants of a domestic strain that went wild on the island many years ago. Framed against the headland—ears forward, nostrils flared, tails switching—they made a dramatic picture.

This new sense of acuity had settled on us by the time we hoisted anchor and headed north across St. Simons Sound. It seemed to bear on our day-by-day existence, the rhythm of life that began with studying the pre-dawn sky, listening to the forecast, making breakfast, discovering the inevitable overnight catastrophe—a leaking engine hose, failed bilge pump. After we had resolved the problems, the landscape would slide by again, and we would actually arrive where we had planned to go. There was something miraculous about this daily evolution.

At Mile 614, off Kilkenny Creek, we passed an outlandish craft, an old river ferry with a glassed in cabin and cushioned seats around the interior. Two men were aboard, one at the helm, the other stretched out on the sun-drenched roof, reading a newspaper. The fellow at the wheel hailed us on the radio. "Where you bound, Cap?"

"Connecticut. How about you?"

"Chicago."

"Chicago!"

"Up the Hudson, through the locks, turn left. Piece of cake."

They had bought the boat in Miami and fitted it with radar for night navigation; they took turns at the helm, ran every night until midnight and got under way before sun-up. Their cruising speed was the pace of a fast walk. "We want to get there before Lake Ontario freezes for the winter," said the helmsman.

We were inching northward all the time and had passed forests of slash, spruce and loblolly pine. There were more hardwoods now. We heard wood thrushes in the evenings and knew that soon we would be leaving the hardy and exquisite Georgia seacoast.

Charleston, S.C., at Mile 469, is a city full of charming antebellum buildings, parks and gardens and is a major eastern seaport. The waterfront looks out at Fort Sumter, where the Civil War began. In the harbor, ships unload consumer goods from the Far East, timber, metals and fruit from South America and other freight from a hundred ports around the globe.

By May 8 we were at Mile 203, powering north in Gallant Channel, when a tragedy was enacted on the radio. The Coast Guard was responding to a mayday off Morehead City—a vessel on fire and people overboard. Talk between the shore and the stricken ship was distant, impossible to follow. It was a sobering moment. Fire aboard a ship, that dreaded disaster, was happening 30 miles astern of us. There was nothing we could do but hope for a successful rescue.

We had been playing leapfrog for several days with Frank Klimek, who was single-handing a big ketch north to New Jersey. At dusk in Belhaven, N.C., he moored next to us. "I almost ran over a bear!" he said. He saw the bear swimming the waterway below Pamlico River. He was able to swing clear and observe its progress to shore where it charged into the forest in what appeared to be a high state of emotional uproar.

Belhaven was another turning point in the voyage. There we entered a different ambiance—rolling, wooded hills reminiscent of Pennsylvania or New England, and the big-water expanses of Alligator River and Albemarle Sound.

Albemarle enjoys a mixed reputation among waterway travelers. Sailors like it because there's usually a good breeze and they can hang canvas. Because it's choppy, powerboaters take another view. Grumbles a wharf companion, "It's like a girl I used to date—a pretty face and a lousy disposition."

On May 9 we pushed *Halcyon* into a stiff northerly and entered Coinjock Bay. By five we were moored at a marina south of Great Bridge Lock. Tomorrow we would reach Mile 0—the famous buoy that for three weeks had seemed so far away. That night, as we sat under the stars, even the music from our tape player was appropriate: Bach's Cantata 140—"Sleepers Wake."

Beyond Mile 0 we had almost 500 miles to go to our home port of Old Lyme, Conn., much of it open water—the Chesapeake, Delaware Bay, the New Jersey coast, Long Island Sound. But the primary Intracoastal Waterway mission was now accomplished: we had followed the spring north and kept pace with it.

[From National Geographic, February 1981]

WHERE OIL AND WILDLIFE MIX—A SYMPATHETIC, SOMETIMES WHIMSICAL VIEW BY TWO BIOLOGISTS OF THE TEXAS COAST

(By Steven C. Wilson and Karen C. Hayden)

Every place is a potential home. Along the Gulf coast of Texas, a pair of least terns assessed the homemaking potential of an aircraft tie-down on an abandoned airfield and found it acceptable. A bed of sticks cradled four eggs on a natural-gas wellhead overlooking the choppy waters of Mesquite Bay—space to build a nest and raise a family of great blue herons.

To an unusual degree, wild creatures and man have learned to share living and working space in this land of contrasts—of broad shorelands that are home to wintering waterfowl and resident reptiles, and to rodents and other small mammals; of the energy industry's arrays of wells and pumping facilities; of vessels laden with fuel and chemicals that ply coastal waterways.

Here vast beaches and dunes, bays and estuaries, savannas and oak mottes, marshes and salt flats lie vulnerable to nature's ceaseless sculpturing. Here a layer of loam covers a mile-deep layer cake of sands that harbor tremendous pockets of fossil fuels. Man taps the energy below while trying not to destroy the Gulf coast's rich wildlife heritage.

North and south from Corpus Christi, barrier islands—Matagorda, San Jose, Mustang; Padre—shield the Intracoastal Waterway from seasonal storms off the Gulf of Mexico. On the mainland, Aransas National Wildlife Refuge is the favorite wintering ground of a bird symbolic of endangered species—the whooping crane. The symbolism is appropriate, for the endangered list at Aransas contains ten other creatures: the peregrine falcon, southern bald eagle, Attwater's greater prairie chicken, brown pelican, American alligator, and five species of sea turtle.

Major threats to wildlife began late in the 19th century—hunting and egg collecting, combined with land drainage, reclamation, farming, and ranching, crescendoed into critical losses of habitat. Numbers of whooping cranes dwindled until, by the end of the century, fewer than a hundred birds were left on earth.

Hope came with the 1930s. Thanks to newspaper cartoonist and conservationist J. N. "Ding" Darling and others, the U.S. government began to acquire acreage for wildlife habitat. In 1936 Neil Hotchkiss, a federal wildlife biologist, visited the Texas coastal-bend area. After seeing four whoopers on Blackjack Peninsula, he recommended further study of the area as a potential refuge.

In 1937, for less than half a million dollars, the government bought 47,215 acres from the San Antonio banking family of Leroy G. Denman, Sr., and others, specifically for a wildlife sanctuary. Though the government did not acquire mineral rights, it did require that part of the Denman gas and oil royalties go to the U. S. Treasury until the purchase price was rebated. The Denmans leased their mineral rights to Continental Oil Company, which then began development.

In 1938 the world's wild whooping crane count was down to 29.

By 1947 Continental had begun continuous production at Aransas. With insights from biologists and birders, the firm organized its operations around the needs of the surviving cranes. As L. F. McCollum, then the chief executive of Continental, recalls: "The cranes didn't want to be anyplace else, and I didn't want to be the one to make them leave."

In 1948 the wild whooping crane population was up by just two from a decade earlier—to 31. The count sank to 21 in the winter of 1951-52, then rose gradually to an encouraging 74 in 1978-79. Last spring there were six yearlings to join the flight north to Canada's Wood Buffalo National Park. It is a 2,500-mile journey that is not without peril—a predator, a storm, a utility wire.

The wild whooping crane census now stands at 76, an improvement deriving in large measure from protective practices at Aransas. Other wildlife that flourishes includes three herons—a reddish, a Louisiana, and a great blue. They nest on tiny Carroll Island in sight of a drilling platform.

Such compatibility is jeopardized daily by the barges that ply the Intracoastal Waterway, through the very heart of the whooping cranes' preferred grounds. The hazard is not the traffic but the cargo—crude oil, benzene, carbon tetrachloride, hydrochloric acid, and other caustic chemicals. One mishap could mean disaster.

Peril of a larger magnitude seemed only a tide change away in the summer and fall of 1979. On June 3, 600 miles to the southeast off the Yucatán Peninsula, a Mexican oil well blew out. Fire enveloped the rig, and the well began spewing an estimated 30,000 barrels of oil a day into the Gulf's far-ranging currents. It was the largest oil spill in history.

Two months later an oil slick reached the Texas coast's barrier islands, striping the beaches with black, sickening birds, and routing bathers and fishermen. Manmade booms were stretched across the narrow entrances to the bays, estuaries, and marshes that protected the whoopers and friends.

By the grace of God in the form of seasonal changes in wind and current, the immediate danger ended by early winter, and in early spring the well was finally capped. The first waves of "chocolate mousse" and tar balls washed up on the outer coast, but the barrier islands shielded the rich wetlands and gave man some time to meditate upon an environment's vulnerability.

As biologists we made three trips to this land we came to know as the "whooping cranes' oil field." With images caught on film and in words, we have sought to convey its daily activities, which were of compelling interest to us as students of animal behavior.

Sometimes frustration was our only reward. I remember a day on the mud flats of Ayres Island in a 14-foot johnboat. It wasn't the driest boat I'd ever captained—I've used sieves that leaked less—but it was the steadiest. For an hour I had been waist deep in the mud, trying to push the boat closer to a family of whooping cranes we'd spotted earlier in the day.

We seemed no closer to the birds than we were hours before, when we'd stopped to swallow a few handfuls of dried fruit and nuts. The sun hung near the western horizon; I was numb with exhaustion.

Karen traded places with me, and we struggled on. Now she was pushing so hard that she was crying. The distant white dots we sought to photograph turned yellow with the sinking sun. Then they strode to the tide line, trumpeted, faced into the wind, leaned their long necks forward, and took off. They covered in less than a minute the distance we spent all day trying to make.

But usually we were luckier. Once as we walked through tall grass beside Sundown Bay, we saw whooper tracks and suspected that we were in a resting area. Then, far down the beach, a pair took off. As we crouched in the grass, they landed about 20 feet away. For 20 minutes they stood and groomed, then moved down the beach, feeding on blue crabs. They stalked a mile or more before flying.

Since we are consumers of gas and oil and tires and telephones and many other things that increase our comfort—and sometimes our confusion—Karen and I seldom find ourselves polarized into the we-they confrontation trap that seems to be the perpetual quagmire of environmentalists and industrialists. We want whooping cranes. We want oil. Some people fear that it may not be possible to have both.

Yet I look to the future with all the optimism of a perennial winner. I come from a chain of life that is three billion years old. An unbroken chain. All my ancestors were the smart ones. They made the right decisions. I would hate to be the one who broke the chain and destroyed three billion years of effort.

[From National Geographic, February 1981]

The Caribbean: Sun, Sea, and Seething

(By Noel Grove)

(From the tip of Florida to the shores of South America, myriad islands like Jamaica (left) offer blue water, white sand, balmy breezes, soothing sunshine, and a relaxing indolence that make them idyllic tourist retreats. But those tourists often shield their eyes from the overpopulation, the poverty that stands begging, and the endemic joblessness that will not go away easily. Behind the lovely island facades thin topsoil and scarce fresh water make agriculture difficult in many areas. Hundreds of years of paternalistic colonial rule have left populations ill equipped to develop their new nations. Political and racial unrest festers throughout the archipelago, a region shared by opposite worlds—rich and poor—with little means, and seemingly little desire, to communicate. Noel Grove and Steve Raymer present an unshielded report on their recent travels in the troubled islands.—The Editor.)

The road out of Port-au-Prince leads one over forested hills and back through centuries. Donkeys outnumber cars, and children run naked. Between the hills are plains carpeted with sugarcane. Bullock teams pull wooden-wheeled carts, urged on by drivers with snakelike whips.

The poor live in the hills, growing coffee for meager cash and food for subsistence. The annual rural income in Haiti averages $60, and that includes the few wealthy landowners who grow sugarcane and coffee and make many times that amount.

I visited the three-acre farm of a man named Nesmere. He welcomed me, a stranger, and with his machete quickly chopped open a green coconut to offer its sweet milk. We walked the smooth dirt paths of his farm, through a tangled cornucopia of beans, yams, and melon vines climbing stalks of corn. Trees stretching above bore grapefruit, breadfruit, and guavas; coffee plants grew in their shade.

Perhaps it was pride that forced Nesmere to assure me that he and his wife and three children have enough to eat. "Enough" is a delicate balance, and one that was upset for thousands of Haitians when Hurricane Allen lashed Haiti's southwestern peninsula in the summer of 1980. Many went hungry and fought over food and water airlifted in by the United States military.

Nesmere's farm survived the weather, but under the best of circumstances his family is undernourished. It is not unusual for women in the Haitian countryside to lose half of all live births to infant diseases. A child of two is called, in creole, *youn it chape*—"a little escapee" from death.

"I once surveyed 250 people in that area, asking them if they would leave Haiti if they could," an American anthropologist told me. "Every one of them, except for the very old or sick, said yes. I asked them why, and they would answer, '*Pou cheche lavi mouin*—to search for my life.' "

Thousands have left, many of them in shabby overcrowded boats whose owners promise passage to Florida but often drop them in Cuba or the Bahamas. Haiti, the poorest country in the Western Hemisphere, provides an extreme example of the flight from poverty. But throughout the islands of the Caribbean, people are "searching for their lives." Economic problems, stoked by years of neglect and fired by rising oil prices, are causing them to look for solutions by ballot boxes as well as leaky boats, and occasionally by bullets.

There are hundreds of islands of the Caribbean, curling like an unclasped necklace between North and South America. (See the double supplement map of the West Indies included with this issue.) About 50 are inhabited, by some 30 million people. Their storied ambience, created by sun, white sand, palm trees, and a gentle sea, has become a modern stereotyped image of earthly paradise, drawing millions of visitors from earth's temperate zones.

But behind the sand and palm trees stirs a restlessness marked by shortages, unemployment, poverty, inflation, and a growing anger among people who must nevertheless be among the friendliest in the world.

"We have been your playground," a Caribbean journalist told me. "Now we would like to be regarded more seriously."

They are. The Caribbean's restlessness has brought changes to governments and economic systems that hint at new alliances, capturing the attention of the world's superpowers and thrusting these once quiet islands onto the world political stage.

Close to half of the United States' imported oil passes through the Caribbean. "Perhaps we overreact to changes in governments sometimes," I was told by a State Department official in the Office for Caribbean Affairs. "But we *do* have legitimate security concerns in that area."

Grenada is an island smaller than the average midwestern American county, with a population a little over 100,000. Located near the bottom of the necklace close to South America, it ranks at the top of the list in terms of beauty. Vines and creepers cascade down the volcanic hillsides along the curving, potholed road from the airstrip to the capital, St. George's. Banana trees cover the valleys, and nestled among them are the crops for which the "isle of spice" is best known—nutmeg and cocoa.

The other unmistakable feature along the road is the profusion of signs bearing revolutionary slogans.

"Forward ever, backward never."

"Every single day is a struggle."

And my favorite: "Stay up!"

Souring the flavor of the spice island for more than a decade had been the corrupt and repressive government of Sir Eric Gairy. On the morning of March 13, 1979, while Gairy was visiting New York City, a truckload of armed men captured the army barracks in St. George's and installed an articulate London-trained lawyer named Maurice Bishop as prime minister.

Within weeks the new government was armed with weapons from Cuba and firing salvos of criticism against American "interference." By the time I arrived in Grenada in mid-1980, posters of Fidel Castro and Bishop smiled down on me, and some 200 Cuban technicians were helping build a new airport capable of landing the largest jets.

The airport construction and the friendship with Cuba made foreign policymakers in Washington nervous. Their protests to Grenada made Bishop angry.

"Just after the revolution we requested aid and arms from the U.S.," he told me one evening at his hilltop offices, which overlook the bay-hugging capital of St. George's.

"We were offered $5,000—barely enough to built a toilet! Cuba sent arms, technicians, and doctors. Which one would you call a friend?"

State Department officials say that, as a matter of policy, the United States channels funds to small islands of the eastern Caribbean through regional institutions such as the Caribbean Development Bank. Grenada draws heavily on these funds.

Those whom politicians would call friends or enemies, their constituents may call acquaintances. On my way to view the controversial new airport, I picked up a hitchhiker on his way to work as a security guard. He smiled agreeably when I identified myself as a visitor from the U. S.

"Is this the airport that the Cubans are building?" I asked him as we topped a rise to see a massive carving of hills and filling of gullies for a runway.

"Yes, there are many Cubans working on it," he said, still smiling agreeably.

I dropped him at his post, a man happy for a ride from an American and a job working among Cubans.

Complaints about the revolutionary government are not difficult to find: a drift toward socialism, the lack of elections and of a free press, the proliferation of guns.

Even Bishop's critics concede, however, that he would probably win an election if one were held. He has, through land reforms, revolutionary zeal, and the placing of Grenada in the international spotlight, given his people a new pride.

Pride and a national awareness were a long time coming to the islands of the Caribbean. In 1961 only three were independent—Cuba, Haiti, and the Dominican Republic, which together contained three-quarters of the Caribbean population. In 1980, ten were independent, and by mid-decade several more will probably follow. Half a dozen of the smallest would fit into the King Ranch of Texas.

As nations, the islands are creations of European colonialists of the 16th and 17th centuries. For more than 300 years they were commercial factories, first turning out gold from mines and, after that quickly ran out, producing tobacco and sugarcane for a continent 4,000 miles away.

Their entire populations are transplants. Three-fourths of the Caribbean people are at least partially descended from African slaves. The remainder includes direct descendants of European colonists, along with East Indians and Chinese who were shipped to the New World as indentured laborers when slavery was abolished in the 19th century. The original inhabitants, Arawak Indians and the Caribs who gave the region its name, have all but disappeared as distinct groups through war, disease, and interbreeding.

Economic dependence continued even after political independence. Industries are usually established in the Caribbean with foreign capital and know-how. The host country is happy for the employment, the investor for low wages and high profits.

Still, there are more people than jobs. In the past the young left the islands to work in the United States, the United Kingdom, and France, among other developed nations, and sent back money to their families. Now employment problems and restrictive immigration policies in those countries make departures less feasible.

The young have begun staying home. Caribbean streets today resemble summer camps, so youthful are most of the occupants. Knots of them can be seen on the streets of Kingston, Bridgetown, Fort-de-France—young women with sparkling eyes jiving to transistorized music; young men play-sparring with each other, their pent-up energies an acid on their idleness.

Idle lands can be found on many of the islands too. Farming is unpopular for historical as well as economic reasons.

"Slavery left a stigma on working the land," said Cyril Matthew, permanent secretary in the Ministry of Agriculture in Castries on St. Lucia. "But low income is more significant. Sixty-five percent of the people live in the country, but it is the dream of many rural parents to see their children get a job in town. And that won't change until a farmer can make a good living."

Sugarcane continues to sweeten Caribbean economies, and the best land usually holds cane, not other food crops.

A drive around Barbados is a voyage through green oceans of the lush plants. Cane, cane everywhere, but I saw hardly a carrot to eat. Like many of its more mountainous neighbors, this rolling coral island must still import produce from Puerto Rico, often to feed tourists from New York.

"The region needs new systems, new technology to make food production pay," said Dr. Lewis Campbell, project director with the Caribbean Development Bank in Bridgetown, Barbados.

I visited one farm using new technology that will virtually eliminate tomatoes from Barbados's import bill. Just east of Bridgetown, Gus Joseph grows tomato plants in pots of sand that are watered automatically by machines.

"Thirteen different nutrients are blended into the water piped to each pot," he told me as we strolled among 7,500 vines, each climbing its own string toward a ceiling of fine netting designed to keep out insects. In this hydroponic garden covering little more than half the area of a football field, he has produced 60 tons of tomatoes a year. A second garden, for growing a variety of vegetables, is now under construction. I saw nothing to prevent such systems from being set up in any Caribbean country—except, perhaps, the lack of capital.

Those familiar with the islands would not be surprised to find innovative agricultural operations on Barbados. This most windward of Caribbean nations has a reputation unmatched for stability and success.

Bridgetown is the kind of quiet, polite place one expects of a semiprosperous Caribbean capital, with colorful waterfronts, a thriving business district, and streets adequate to keep traffic moving. Outside Bridgetown, country roads crisscross the rolling terrain like a baffling maze.

Why does Barbados work so well? The most repeated answer seemed too simple: "It's because Barbados has always been British." Continuity was not a hallmark of the Caribbean colonies. Nearby St. Lucia changed hands between the French and the British 14 times.

"Young governments are like young people," one Caribbean observer suggested to me. "They need role models to follow. What kind of institutions can you set up when you are first Dutch, then French and British?"

Too much wealth may be a problem for Barbados's neighbor to the south, the dual-island nation of Trinidad and Tobago. The only Caribbean country with substantial petroleum, Trinidad and Tobago holds foreign-exchange reserves totaling billions of dollars.

With talk of oil wealth in my head, I entered Port of Spain expecting a modern, plasticized city interspersed with refinery towers and tank farms. Instead I found a capital of low-rise colonial architecture and an unbelievable open space near the city's center—the Queen's Park Savannah. The grassy 200-acre park includes cricket fields, soccer fields, and a racetrack. The track was designed for Thoroughbreds and, judging from the frequent traffic jams, the streets elsewhere in the capital were designed for horse-drawn carriages.

"Wha' happnin' is eviboddy gotta big cah and petro' to run it, but nobody kin move," said a disgusted cab driver one afternoon as we sat immobile on a downtown street.

True frustration in a nation shows its head very quickly. In addition to the cab driver's lament, I heard numerous unsolicited complaints about the water supply, high prices, and health care. This petroleum-rich country was the only one from which I could not place an overseas call. Attempts at dialing locally produced, perhaps half the time, electronic groans and beeps.

In none of the complaints was any blame laid on Prime Minister Eric Williams. The brilliant scholar, author of several historical books about the Caribbean, head of state in Trinidad and Tobago for 24 years, operates the government almost as a recluse.

"You hear complaints about the system, but rarely about the man," said a foreign diplomat in Port of Spain. "There's the aura about Williams, and they can't imagine replacing him. There's a saying in the local dialect, 'Who we go put?' "

Minister of Health Kamaluddin Mohammed, an articulate member of Trinidad's large East Indian population, spoke for the prime minister, who suffers from acute hearing loss.

"Development takes time," he told me at a meeting in his office. "We only began to realize our oil wealth in 1974 and 1975, but improvements will be coming soon."

As I left the minister's office, a woman moved beside me mumbling about jobs. "When they want your vote, they promise you everything. I have no job and four children and my man has left me."

I was about to ask her what had been promised when she spied a man selling lottery tickets on the sidewalk.

"Oh well, maybe I try my luck," she said, fishing out a bill and hailing the vendor.

When social unrest of any kind is felt in these supposed paradises, it is greeted with surprise by those searching for languor.

Puzzlement showed on the faces of a retired couple from Virginia when they related a story to me about their last stay on St. Croix in the U.S. Virgin Islands.

"We were sitting on the veranda of our condominium one evening, having a rum punch and listening to a band play calypso music," said the husband. "My wife said, 'Fred, listen to the words of that song.' It was all about rich folks riding in Cadillacs and how the poor were going to get their share one of these days."

The song was probably not calypso but reggae, the throbbing Jamaican music:

Give them an inch they take a yard
Give them a yard they take a mile
Once a man and twice a child
And everything is just for a while. . . . ©Bob Marley Music.

"Just for a while" in Jamaica can be a delight. The mist among the Blue Mountains suggests their romantic name, and the coffee grown there tastes like black liqueur. The interior of the island is lush and green with occasional rolling pasturelands and stone walls; the colonials who settled the land had much to remind them of quiet English countrysides. The sons of Africa who live now in west Kingston have much to remind them of hell.

In the first five days I spent in the capital, 54 people were killed. The total for 1980 was expected to reach as high as 500. The victims were mainly hot young fanatics in the two major parties—the People's National Party and the Jamaica Labour Party.

Jamaica was embroiled in a political campaign that pitted socialism against free enterprise—and each promised to solve the rending problems of the poor.

In the mid-1960s the country had one of the most promising economies in the Caribbean. By 1980 it had a national debt of 1.4 billion dollars that it could barely service, let alone pay back. Inflation had tripled in a decade, and 30 percent of the work force was unemployed.

Oil costs bit into Jamaica's foreign exchange just as they did elsewhere, but the nation counted on bauxite, the reddish earth that is the principal source of aluminum, to rescue the economy. In 1974 the island government increased taxes on foreign-owned aluminum companies that process it. The companies responded by trimming production, while the income from the tax was quickly spent on programs for the poor.

The man responsible for both levy and programs was Prime Minister Michael Manley. By 1980 many Jamaicans were holding him responsible for economic problems.

The steely-haired, charismatic Manley was elected in 1972 and again in 1976 on programs advocating "democratic socialism." Foreign investment dried up and many local entrepreneurs fled as Manley professed an open admiration of Fidel Castro.

Castro warned Manley, I was told, not to alienate or drive away his middle class, whose skills are needed. "It's a mistake I made," Castro is said to have added.

Apparently, the warning was not heeded: Factories, unable to buy spare parts or raw materials, closed; store shelves became bare. In one supermarket I saw housewives rush a stock boy when he produced a few bags of sugar from a back room. "Those women have been waiting all day for that," an onlooker said.

The sagging economy and the pressure of criticism led Manley to call for elections.

Manley's opponent was Edward Seaga, Harvard-educated, who opposed Cuba as much as Manley admired it. "Cuban expansionism is a very definite strategy," Seaga told me in his Kingston office shortly before the election. "It has not yet enveloped any major area of the Caribbean, but it has made advances in Jamaica and Grenada.

"It was the fear of that drift toward Cuba and Communism that drove capital away from Jamaica. Our party has a much better relationship with international financial institutions, and is therefore in a better position to get the economy moving again."

Weeks later voters gave him a chance to prove it, ousting the eight-year government of Michael Manley.

In the continuing economic shambles after the election, it was reported that only a vast illegal marijuana trade was keeping the country afloat. Smuggled into the U. S., the crop sells for an estimated $1.1 billion a year, more than all other exports combined.

The Dominican Republic, which shares the island of Hispaniola with Haiti, illustrates how political stability can affect an economy: Foreign capital pours into the country for housing, tourism, agriculture, and industry, but often fails to reach the extremely poor.

Puerto Rico, across the Mona Passage from the Dominican Republic, enjoys a unique commonwealth status with the U. S. and has been transformed by U. S. capital into a huge industrial park. But industry alone cannot solve all problems. In Puerto Rico, islanders complain of a "welfare psychology," with 17 percent unemployed and 53 percent receiving food stamps.

And so the people of the Caribbean grope, each in their own way, to find answers to their problems. Many disagree with the idea of Jamaica's Seaga that Cuba has a very definite strategy of expansion. Others say that even if it is true, it misses the point.

"The big powers may be eyeing the Caribbean, but the island countries are mostly looking inward," a Trinidadian told me. "I wouldn't call them pawns in a chess game. I see them as experiments in a social laboratory. They'll try anything to see if it works."

Pick almost any country in the Caribbean and you can view a different brand of government, endless combinations in the economic test tube—totalitarianism, democracy, private and state ownership, European colony, Marxist socialism.

I had sampled them all but the last.

One's senses become keenly alert entering a country considered unfriendly to one's own. The eyes watch for flickers of resentment at mention of United States nationality. The ears listen for whispered asides, tones of sarcasm, and subtle hostility. I saw and heard nothing to make a U. S. visitor feel unwelcome in Cuba.

Havana, for all its size (nearly two million people), has the pace of a medium-size midwestern U. S. city. One reason may be the lack of traffic. Only those who owned automobiles before the revolution or who can show need for one now are allowed to have cars. Besides quiet streets, the policy has resulted in a moving museum of early products of Detroit, lovingly tended to extend their life. I often engaged in a guessing game with a driver named Julio, who knew each by make and year.

"Studebaker, Julio, cincuenta y uno!"

"No, Noel, cincuenta y dos."

Downtown Havana was a pleasant surprise, with its wide thoroughfares and old European flavor, high-arched porticoes and wrought-iron balconies. I saw living quarters on side streets that were less impressive—dingy, crowded flats with no running water. A Cuban guide admitted that housing was a major problem. He also agreed that lack of privacy accounted for the lovers who line the seawall of the two-mile-long oceanfront boulevard each evening, oblivious to all but each other and the sea.

I found plenty of supporters of Castro's socialist Cuba. Some referred to the thousands of refugees who fled in boats to the United States last year as "scum"; others conceded that most of the refugees were decent people who did not want to put up with the difficulties there.

The difficulties, and the desire of some to leave, remain. "I am tired of shortages and rationing," hissed a woman in an austere supermarket. "I am leaving as soon as I can."

The shelves were empty compared to an American supermarket, but variety existed. There were canned pears and cherries from Eastern European countries and nearly as many canned goods labeled *Hecho en Cuba*. Staples such as meat and milk products were rationed but available. Cubans are quick to point out that while their nation is not a land of plenty, neither is it a land of serious want.

An economist blamed the continued U.S. embargo against Cuba for economic hardships over the past 20 years and admitted that aid from the Soviet Union was essential for the nation's economic health. But he flatly denied reports that Cuba receives as much as ten million dollars a day in subsidies from the U.S.S.R.

"They help by selling us oil at a low price, and they buy our sugar on a sliding price scale—sometimes above, sometimes below world price," he said. "Other aid comes to us in the form of low-interest loans, much of which has been repaid."

Military equipment, he added, is free. That equipment and sometimes Cuban technicians or soldiers have appeared in other countries in the Caribbean, Central America, and Africa. But Cuba's influence is also extended by foreign students who come to the socialist nation for education.

The Isle of Youth, an island less than an hour's flight south of Havana, holds 54 boarding schools for youngsters of highschool age. Seventeen are for non-Cubans.

Dawn was barely tinting the horizon when I arrived at a school for Namibian youngsters at 6:30 a.m., just as they were lining up on the parade ground for flag raising and a reading of the day's events and instructions. While half the student body attends classes the other half tends citrus groves "to learn the dignity of work," as a Namibian instructor told me.

After the raising of Namibian and Cuban flags, the students sang patriotic songs about "fighting on land and sea" and yearning "to see my people free." Their homeland was declared independent by the United Nations, a mandate not recognized by South Africa, which controls it.

I asked a young Namibian girl if she received any military training. She looked puzzled and said no. I asked if she was a member of the Young Pioneers, the Communist youth group, and she said no.

"We have a class in politics, but I would not say that heavy politicizing is done by the Cubans," said a Namibian instructor.

An experience at the school for Nicaraguans left little doubt that heavy politicizing of these young people was not necessary, and that they would leave the island as future friends of Cuba.

In an English class I asked the 13- and 14-year-old students: Who are your heroes? Whom do you admire?

The hands shot up. The most common answer was Augusto Cesar Sandino, the Nicaraguan martyr whose name was adopted by the Sandinista guerrillas who overthrew Nicaragua's former head of state, Gen. Anastasio Somoza. Others?

"Fidel Castro! . . . Che Guevara!"

What Americans do you admire?

Silence. A hand went up tentatively.

"John Kennedy."

"George Washington."

A boy near the front snapped his fingers, his brow furrowed, a name somewhere on the fringes of his mind. Finally a flash of recognition, and the hand. "Tom Sawyer."

On the battleground of need, help is the greatest weapon of all. I left the Caribbean with the impression that the mini-nations scattered there care less about who fires that missile of hope than they do about feeling the effect.

An outright gift from Venezuela of a tanker of petroleum won praise from Grenada's official newspaper, which in another column grumbled about Venezuela's friend, the United States.

"We have not even begun to exploit the resources of the sea," said a Jamaican. "You have data and research capabilities that could help us do so."

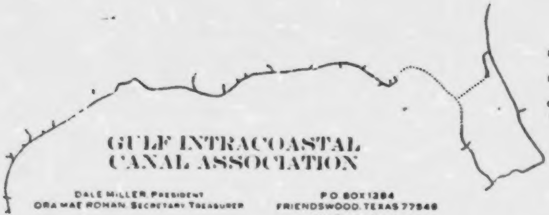
I asked a Cuban Foreign Ministry official what improved relations with the U.S. would mean. His answer was immediate: "You have technology in medicine and industry that is the best in the world. You have computers that would speed our development several times over."

I asked another Cuban if the Soviet aid did not mire them in a kind of dependency on a major power.

"When you are drowning, you do not ask who is throwing the life preserver," he answered.

The analogy came back to me as I rose above Barbados on a final flight to Miami. At about 5,000 feet I glanced out the window and found I was looking at the entire island from coast to white-foamed coast.

It was hard to imagine that this was an entire nation, and one of the more successful ones in the Caribbean at that. From the heights, we've looked on them as lovely pleasure boats for us to step aboard and take our leisure. And failed to see them reaching for the lifeline.



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Statement of Dale Miller
President of the Gulf Intracoastal Canal Association
Submitted to the Subcommittee on Water Resources of the
Senate Committee on Environment and Public Works
May 19, 1983

Mr. Chairman and Members of the Subcommittee:

My name is Dale Miller, and I am President of the Gulf Intracoastal Canal Association, with principal offices in Friendswood, Texas. It is my privilege to submit to you this statement expressing the opposition of our organization to S. 1131, the bill to de-authorize the Cross-Florida Barge Canal.

Our Association was organized 78 years ago, in 1905, and through the years it has cooperated actively with Congress and Government agencies in the creation of the Gulf Intracoastal Waterway system, a complex of navigation facilities that has come to be regarded as the most remarkable artery of transportation in America. It has achieved by far the highest ratio of benefits-to-costs of any waterway in the nation -- or of any other form of transportation. Its annual commerce of nearly 100,000,000 tons exceeds by almost twenty times the figure of five million tons which was originally predicted when it was authorized.

The main channel of the Gulf Intracoastal Waterway extends today approximately 1,200 miles from the Mexican border to the east coast of Florida, and it is a significant fact -- especially pertinent to these hearings -- that a similar navigation facility, the Atlantic Intracoastal Waterway, extends a similar distance, with similar dimensions of depth and bottom width, from the east coast of Florida to the northeastern section of the United States.

Taken together, therefore, these two waterways would constitute a single entity extending 2,500 miles along the Gulf and Atlantic coasts -- a remarkable navigation facility unexampled throughout the world. But they cannot be "taken together", of course, because midway along the system is the missing connection -- the Cross-Florida Barge Canal, which is clearly needed in the national interest.

([illegible])

"FROM MAINE TO MEXICO"

BEST COPY AVAILABLE

So I respectfully suggest to you -- and this fact underlies the entire problem -- that although the project itself is confined to a single State it is by no means an isolated or provincial facility. It is important to distant Texas -- indeed, even to the neighboring nation of Mexico -- and important as well to States along the eastern seaboard of the United States, reaching as far north as New Jersey. And even more, by the connections of the Gulf Intracoastal Waterway with the vast Mississippi and Ohio River systems, the project is important all across the nation's heartland -- an integral part of a national transportation system.

So I urge you to place this problem in the perspective that it fully deserves. It is a project that does not belong to Florida alone. It belongs as well to most of the United States, from the Gulf of Mexico to the Great Lakes, and from the Rocky Mountains to the Atlantic. That is why I feel no sense of presumptuousness in expressing the opposition of our Association to the deauthorization of this project.

The Cross-Florida Barge Canal has been beset for years by the opposition of environmental and ecological groups. We think those objections are virtually without merit, and we speak confidently from our own long experience. We constructed the Gulf Intracoastal Waterway over a long period of years, for more than a thousand miles, and we dredged it inshore and offshore, across bays and rivers, through lagoons and bayous and estuaries and mudflats and marshlands -- and today, as it moves north and then east from the border of Mexico, it parallels the Padre Island National Seashore for a hundred miles. It crosses a corner of the refuge of the whooping cranes -- crosses busy ship channels thronged with fishing and shrimp boats, convoyed by ever-present porpoises. It penetrates the bayous of Louisiana, passing alongside game preserves and the habitat of exotic wildlife -- and on to the Gulf Isles of Florida.

That is the world of our Waterway. It is a commercial enterprise that beggars description, yet it was accomplished in harmony with the environment. We have learned that progress and preservation can, and do, co-exist together.

We are resolutely confident that the Cross-Florida Barge Canal can achieve the same striking results -- enriching the economy without impairing the environment. In view of our long experience, it is difficult for us to believe that there are some intricate and mysterious ecological problems in that area that were not encountered, and successfully overcome, along a thousand heterogeneous miles to the west.

So we respectfully urge this Subcommittee to keep alive the opportunities and challenges which still lie ahead -- not to suffocate them by terminating the life of this project that is potentially so important to the economic well-being of our country.

RESOLUTION 83-4

OPPOSITION TO HOUSE BILL HR 2695
AND SENATE COMPANION BILL

WHEREAS, The Withlacoochee Regional Planning Council's adopted Regional Land Use Plan states that the Council shall strive to obtain the best possible physical, social and economic conditions for the region and its residents through the planned use and development of land, buildings, the transportation network, and public facilities; and,

WHEREAS, it is the policy of the Withlacoochee Regional Planning Council to promote a balance of growth throughout the region while providing the necessary public services and facilities to support growth; and,

WHEREAS, the Cross-Florida Barge Canal Project is currently under study by the U.S. Army Corps of Engineers as authorized by the United States Congress; and,

WHEREAS, it is recognized that an updated economic and environmental feasibility study of the Cross-Florida Barge Canal Project is needed to facilitate well informed decision-making on the project; and,

WHEREAS, the proposed House Bill HR 2695 and Senate Companion Bill will officially deauthorize the Cross-Florida Barge Canal Project if enacted;

NOW, THEREFORE, BE IT RESOLVED, that the Withlacoochee Regional Planning Council opposes House Bill HR 2695 and Senate Companion Bill to deauthorize the Cross-Florida Barge Canal prior to completion of the economic and environmental evaluation by the U.S. Army Corps of Engineers; and

BE IT FURTHER RESOLVED, that copies of this resolution be transmitted to the Region's Congressional Delegation, the Chairman of the House Appropriations Committee, the Chairman of the Armed Services Committee, the Chairman of the Public Works and Transportation Committee, the Chairman of the Science and Technology Committee, the Chairman of the House Ways and Means Committee, and to the Chairmen of the appropriate Senate Committees.

Wilbur H. Langley Sr.
Wilbur H. Langley, Sr.
Chairman

ATTEST: James D. Mims
James D. Mims
Executive Director

The above resolution was approved by the majority vote of the Council, this 5th day of May, 1983.

RESOLUTION

WHEREAS, the critical shortage of fossil fuels available for large-scale transportational modes utilizing roadway or railway makes ever more essential the establishment and maintenance of more energy-efficient means of transporting bulk materials; and

WHEREAS, the Cross Florida Barge Canal represents a significant advancement in the area of providing a clean, economical, and energy-efficient method of transporting commercial and industrial raw materials and goods; and

WHEREAS, the Cross Florida Barge Canal Project has been authorized by the Congress of the United States since July 23, 1942, by Public Law 77-675; and;

WHEREAS, the Cross Florida Barge Canal has met with dramatic new expressions of widespread public support, including recent resolutions from the Jacksonville City Council, the Citrus County Commission, the Putnam County Commission, the Jacksonville Northside Business Men's Club, the Jacksonville Southside Business Men's Club, the Jacksonville Westside Business Men's Club, the Duval County Democratic Executive Committee, the Duval County Republican Executive Committee, the Northeast Florida Builders Association, the Associated General Contractors of Northeast Florida, the Jacksonville Board of Realtors, the Florida Board of Realtors, the North Florida Central Labor Council, the Coalition for Rational Energy and Economic Development, the Duval County Republican Men's Club, the Duval County Young Republicans, the Duval County Young Democrats, the Jacksonville Mayor's Economic Deveopment Council, the Jacksonville Port Authority, the Florida Waterways Association, Jacksonville Air Conditioners Assoc., Propeller Club, Florida Engineering Society, W.I.C.'s, Equipment Distributors Assoc., C.S.I., Putnam County Democratic Executive Committee, Jacksonville Mechanical Contractors, Builders Exchange of North Florida, Duval County Master Electricians, American Society of Military English, N.E.C.A., J.E.A., Florida Business Roundtable, Putnam County Chamber of Commerce, and many other groups; and

WHEREAS, the most recent update of the Canal's cost-benefit analysis by U.S. Army Corps of Engineers demonstrated a marginally-positive cost-benefit analysis; and

WHEREAS, the most recent cost-benefit analysis update failed to study the regional economic impact benefits, even through similar studies at the same time on similar projects did take the regional benefits into consideration; and,

WHEREAS, the most recent cost-benefit analysis update failed to consider the economic redevelopment benefits, even though similar studies on similar projects at the same time did take into consideration the economic redevelopment; and, WHEREAS, the most recent cost-benefit analysis update failed to allow the contingency traffic to be considered, even though similar studies on similar projects at that time did make this kind of allowance; and,

WHEREAS, the very important savings in coal-hauling for Seminole Electric and for the Jacksonville Electric Authority was not given consideration in the last cost-benefit analysis update by the Corps; and

WHEREAS, the savings in coal-hauling costs for Seminole Electric and for the Jacksonville Electric Authority could be a significant savings to all direct and indirect consumers for the electricity produced by both Seminole Electric and the Jacksonville Electric Authority, at least indirectly benefitting most consumers of electricity in the entire state of Florida; and

WHEREAS, Congress acted last summer to direct the Army Corps of Engineers to perform an update of the Canal's cost-benefit analysis; and

WHEREAS, this vital project is too substantial for any further decisions to be made lacking the resources of a current, comprehensive, and realistic cost-benefit analysis update; and

WHEREAS, Congress specifically directed the Corps to include at least consideration of hitherto unresolved matters of coal-hauling, the regional benefits, the economic redevelopment advantages, and the Canal's contigency traffic; and,

WHEREAS, there remain a variety of other questions still not fully studied, such as the Canal's national defense advantages, the Canal's ability to slow down the flow of water to the ocean, the Canal's flood control capabilities, and the Canal's benefits to Florida's various recreational and commercial fisherman; and,

WHEREAS, neither the Corps nor the Courts have been able to substantiate the charges of environmental harm which have been made repeatedly by a small handful of extremists;

NOW, THEREFORE BE IT RESOLVED by the Cross Florida Barge Canal Coalition that Congressman Charles Bennett, Congressman William Chappell, United States Senator Lawton Chiles, United States Senator Paula Hawkins, all members of the Florida Congressional Delegation, the Florida Cabinet, the Northeast Florida State Legislative Delegations, and the commissioners from the following eight counties; Citrus, Clay, Duval, Levy, Marion, St. Johns, Putnam and Nassau, are hereby urged to support prompt completion of a cost-benefit analysis update of the Cross Florida Barge Canal.

____

ATTEST:

____

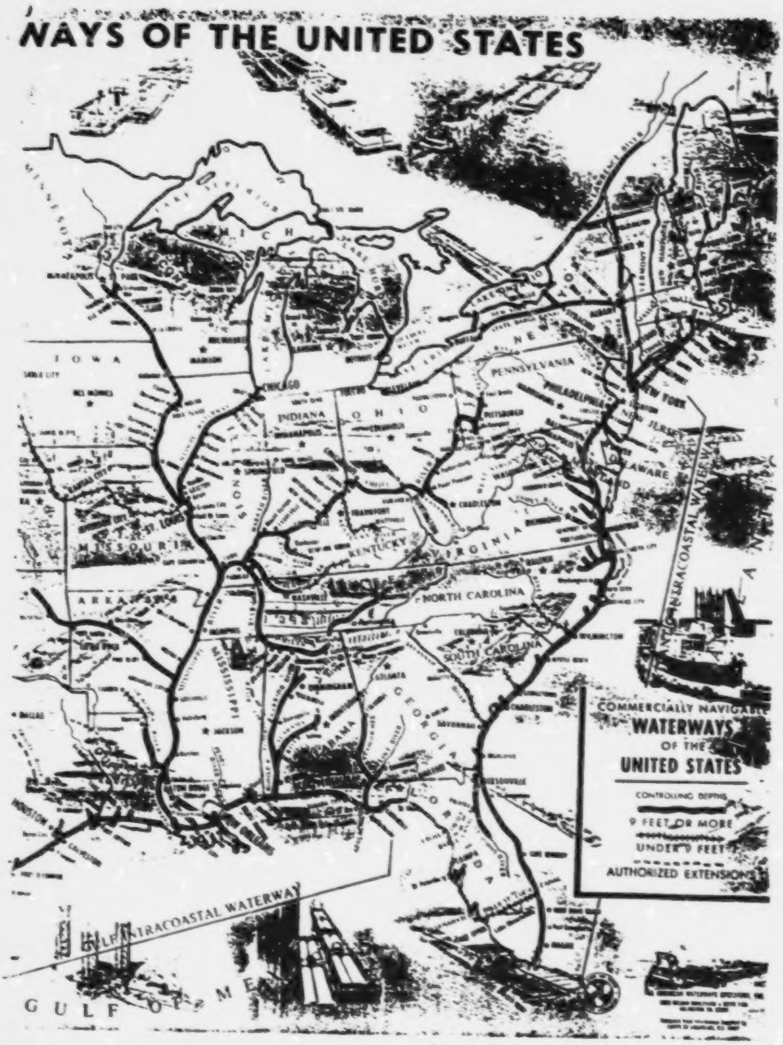
15-3/N1-2

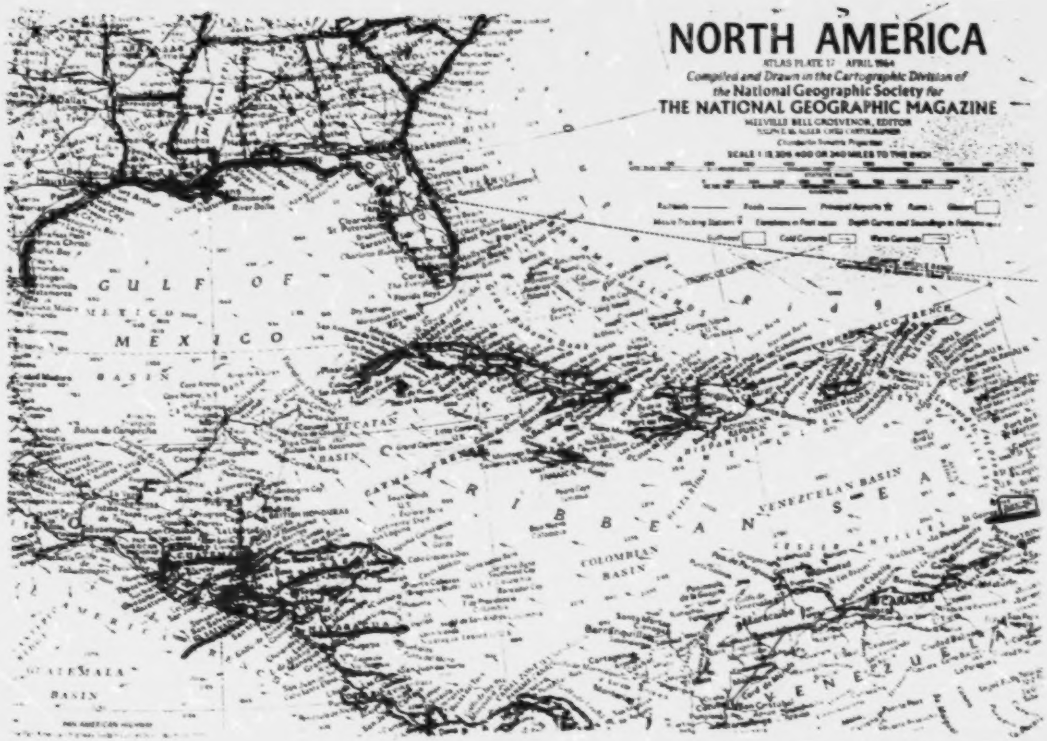
CROSS FLORIDA BARGE CANAL SUPPORTERS

AGC-CFBC Task Force

American Society of Military Engineers
Builders Exchange of North Florida
C.R.E.E.D.
C.S.I.
Duval County Democratic Executive Committee
Duval County Master Electricians
Duval County Republican Executive Committee
Duval County Men's Club
Duval County Young Democrats
Duval County Young Republicans
Equipment Distributors Association
Florida Board of Realtors
Florida Business Rountable
Florida Engineering Society
Florida Waterways Association
Jacksonville Air Conditioners Association
Jacksonville Board of Realtors
Jacksonville Chamber of Commerce
Jacksonville City Council
Jacksonville Electric Authority
Jacksonville Mayor's Economic Development Council
Jacksonville Mechanical Contractors
Jacksonville Northside Business Men's Club
Jacksonville Port Authority
Jacksonville Southside Business Men's Club
Jacksonville Westside Business Men's Club
N.E.C.A.
Northeast Florida Builder's Association
North Florida Central Labor Council

Propeller Club
Putnam County Chamber of Commerce
Putnam County Commission
Putnam County Democratic Executive Committee
W.I.C.'s


WAYS OF THE UNITED STATES
MINNESOTA
LAKE SUPERIOR
MICHIGAN
LAKE MICHIGAN
LAKE HURON
LAKE ONTARIO
LAKE ERIE
NEW YORK
VERMONT
PENNSYLVANIA
PHILADELPHIA
NEW JERSEY
DELAWARE
IOWA
ILLINOIS
INDIANA
OHIO
CHICAGO
MISSOURI
ST. LOUIS
KENTUCKY
VIRGINIA
ARKANSAS
NORTH CAROLINA
SOUTH CAROLINA
MISSISSIPPI
ALABAMA
GEORGIA
FLORIDA
INTRACOASTAL WATERWAY
GULF INTRACOASTAL WATERWAY
GULF OF MEXICO
COMMERCIALLY NAVIGABLE
WATERWAYS
OF THE
UNITED STATES
CONTROLLING DEPTHS
9 FEET OR MORE
UNDER 9 FEET
AUTHORIZED EXTENSIONS


NORTH AMERICA
ATLAS PLATE 17 APRIL 1964
Compiled and Drawn in the Cartographic Division of
the National Geographic Society for
THE NATIONAL GEOGRAPHIC MAGAZINE
MELVILLE BELL GROSVENOR, EDITOR
SCALE 1:15,206,400 OR 240 MILES TO THE INCH
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Jacksonville
GULF OF MEXICO
MEXICO BASIN
Bahia de Campeche
YUCATAN BASIN
CARIBBEAN SEA
VENEZUELAN BASIN
COLOMBIAN BASIN
HISPANIOLA
VENEZUELA
GUATEMALA BASIN
PAN AMERICAN HIGHWAY

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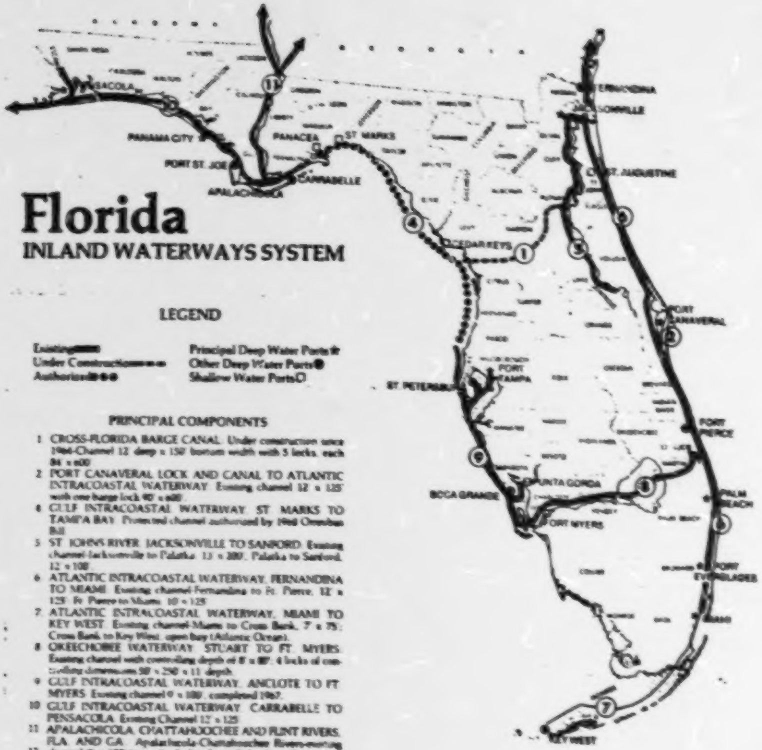
PENSACOLA
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CARRABELLE
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FERNANDINA
JACKSONVILLE
ST. AUGUSTINE
PORT CANAVERAL
ST. PETERSBURG
PORT TAMPA
FORT PIERCE
BOCA GRANDE
PUNTA GORDA
FORT MYERS
PALM BEACH
PORT EVERGLADES
MIAMI
KEY WEST
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11

Florida
INLAND WATERWAYS SYSTEM

LEGEND

Existing▬
Under Construction▬ ▬
Authorized● ● ●

Principal Deep Water Ports★
Other Deep Water Ports●
Shallow Water Ports○

PRINCIPAL COMPONENTS

1 CROSS-FLORIDA BARGE CANAL. Under construction since 1964-Channel 12' deep x 150' bottom width with 5 locks, each 84' x 600'.
2 PORT CANAVERAL LOCK AND CANAL TO ATLANTIC INTRACOASTAL WATERWAY. Existing channel 12' x 125' with one barge lock 90' x 600'.
4 GULF INTRACOASTAL WATERWAY. ST. MARKS TO TAMPA BAY. Protected channel authorized by 1968 Omnibus Bill.
5 ST. JOHNS RIVER, JACKSONVILLE TO SANFORD. Existing channel-Jacksonville to Palatka, 13' x 200'; Palatka to Sanford, 12' x 100'.
6 ATLANTIC INTRACOASTAL WATERWAY, FERNANDINA TO MIAMI. Existing channel-Fernandina to Ft. Pierce, 12' x 125'; Ft. Pierce to Miami, 10' x 125'.
7 ATLANTIC INTRACOASTAL WATERWAY, MIAMI TO KEY WEST. Existing channel-Miami to Cross Bank, 7' x 75'; Cross Bank to Key West, open bay (Atlantic Ocean).
8 OKEECHOBEE WATERWAY, STUART TO FT. MYERS. Existing channel with controlling depth of 8' x 80'; 4 locks of controlling dimensions 50' x 250' x 11' depth.
9 GULF INTRACOASTAL WATERWAY, ANCLOTE TO FT. MYERS. Existing channel 9' x 100', completed 1967.
10 GULF INTRACOASTAL WATERWAY. CARRABELLE TO PENSACOLA. Existing Channel 12' x 125'.
11 APALACHICOLA, CHATTAHOOCHEE AND FLINT RIVERS, FLA. AND GA. Apalachicola-Chattahoochee Rivers-existing
12 channel 9' x 100' from Apalachicola to Columbus, Ga. with 3 locks and dams in Fla. and Ga. (Jim Woodruff, Columbia, and Walter George) each 82' x 450'. Flint River-existing channel 9' x 100' from Jim Woodruff Dam to Bainbridge, Ga.

CROSS-FLORIDA BARGE CANAL UPDATE

(By Marjorie Carr)

In recent months a great deal of procanal propaganda has been released to the media, and it has contained gross errors. The group of canal boosters in Jacksonville is seeking to inflate the economic justification, gloss over the environmental dangers, and generate political support for the all-but-dead project.

It is time, once again, for us to review the facts and report on new developments—none of which should bring comfort to the pro-canal forces.

INCREASING DEVELOPMENT IN THE OCALA REGION MAKES PROTECTION OF THE AQUIFER MORE IMPORTANT

The environmental threat that has caused the widest concern is the 28-mile-long ditch that would have been dug down into the water-bearing rocks—the Floridan Aquifer—of Central Florida from about Dunnellon across to Ocala. According to the design of the canal, it is essential to have the bottom of the canal 12 to 15 feet below the water table in that area. The canal is designed to have free interchange between the aquifer and the canal waters, and indeed the barges would float on water of the aquifer. The danger of this plan lies in the fact that the limerock in this area is honeycombed with solution channels of all sizes, from small tubes to great caverns. While the limerock in the region of the canal channel has been found to be quite dense, it also has been found to have innumerable vertical chimneys that extend down to more permeable layers of limerock. Here lateral solution channels develop that may enlarge into immense underground caverns in unpredictable places and numbers.

Because of this structure of the bedrock, pollutants introduced into the canal waters would move quickly, and with relatively little dilution, quite possibly reaching nearby springs and wells, whenever sizable solution channels are encountered. *The well field for the City of Ocala, the second fastest growing city in Florida, is within a few miles of the canal, and numerous thoroughbred horse farms in the area are dependent on clean well water. Moreover, the flow of underground water in the eastern end of the Summit Reach leads toward Silver Springs.* It is important to note that the State has agreed that the federal government will not be liable for any damages due to construction of the canal.

The Corps tries to play down this danger by minimizing the likelihood of encountering such channels, or by proposing to fill them with cement—grouting. A paltry $15 million has been budgeted by the Corps for this grouting. Professional hydrologists familiar with the Floridan Aquifer point out, however, that the channels are likely to be larger and far more abundant than the Corps expects, and that grouting them with cement, if indeed possible, would be prohibitively expensive—costing up to hundreds of millions of dollars. One of the professional hydrologists opposing construction of the canal is Garald G. Parker, Sr., whose career includes 30 years with the U.S. Geological Survey. In his testimony before the Governor and Cabinet on December 17, 1976, Mr. Parker said, "I deplore the proposed construction of the Cross-Florida Barge Canal in the unfinished Summit Reach because I believe that it's going to be a disaster for this area, chiefly caused by expected pollution of the regional groundwater supply in the Floridan Aquifer."

THE CFBC WOULD USE, NOT CONSERVE, WATER

The canal project would not create additional water for water supply development in Florida. On the contrary, the project ties up vast quantities of water—both surface and ground water—to maintain the operational viability of the project.

Operation of the canal locks would have substantial immediate and long-term adverse impacts upon present water users such as municipalities and agriculture, and will preempt future uses of the water in this rapidly developing part of Florida. In times of drought the problems would be exacerbated. It should be noted that the drought of 1980–81 has already caused a drop of some water levels in the canal area below the minimum level needed for floating barges.

The shallow reservoirs are not located in a region of aquifer recharge but instead in an outflow zone. Over 20 springs are found in the Oklawaha Valley in the canal area. Because the reservoirs act as evaporation pans, there is a small net loss of water in this area.

THE CROSS-FLORIDA BARGE CANAL NO LONGER HAS SPONSORS AT EITHER THE STATE OR FEDERAL LEVEL

As a result of economic and environmental studies of the canal made in the 1970's, both federal and state support for the project have disappeared. Key developments were as follows:

January 15, 1971—Temporary injunction halting construction by a U.S. Federal Court.

January 18, 1971—Project completely halted by President Nixon.

December 1976—Governor and Cabinet oppose further construction, and ask U.S. Congress to deauthorize the project.

February 1977—Chief of Engineers, Corps of Engineers, recommends CFBC project be terminated.

October 1978—Deauthorization bill passes U.S. Senate. (Even though the deauthorization bill had support of 11 of the 13 Florida congressmen, it did not reach the floor of the U.S. House because of the opposition of Mr. Bennett and Mr. Chappell.)

May 1979—Florida Legislature voted to carry out the recommendations of the Governor and Cabinet.

August 1981—U.S. Federal Court ruled that previous injunctions will remain in effect.

THE CFBC WOULD NOT RESULT IN 20,000 NEW JOBS IN NORTH FLORIDA

This claim is based on a misreading of the CFBC restudy report and cannot be supported.

Cost of completing the CFBC at 1982 price level	$474,000,000
Money already spent	73,000,000

CURRENT WATER POLICY INTEREST RATES REDUCE CFBC'S BENEFIT COST RATIO TO ABOUT 50 CENTS ON THE DOLLAR

The CFCB is a federal public works project and the Corps of Engineers, in determining the benefits and costs of a project, is constrained to follow the guidelines set down in the Water Resources Council's Principles & Standards.

The benefits and costs of a project, after being discounted at an interest rate prescribed for waterway projects, should have a ratio of 1 to 1 or better before public funds—tax monies—are allocated.

When the canal was halted in 1971 the COE claimed a B/C ratio of 1.71 to 1, using a 2-⅞% interest rate. In 1976, after a new economic restudy, and using the then current interest rate of 6-⅜%, the Corps reported a B/C ratio of .63 to 1. (They also reported that at 6-⅞% the ratio would drop to .58 to 1.) Today the current interest rate on Water Projects is 7-⅝%. This would reduce the B/C ratio to about 50¢ on the dollar.

SPECULATIVE FUTURE COAL MOVEMENTS THROUGH THE CFBC HAVE NOW EVAPORATED

There is less economic justification for the canal project today than there was in 1976 when the state completely removed its support of the project. At that time the Corps listed as a possible benefit a speculative future coal movement through the canal. Today that speculation is gone. Power plants in the area made other plans and commitments. The area plants are: 1) the Florida Power & Light oil-fired plants at Sanford on the upper St. Johns, 2) the two Seminole Electric plants now being completed at Palatka, and 3) the two Jacksonville Electrical Authority plants.

The Seminole Electric Cooperative has signed a favorable 22-year contract for delivery of all its coal for the Palatka plants by barge, using existing waterways to Port St. Joe and unit train from there to Palatka. They have no use for the CFBC. The JEA is planning a coal transloading and storage facility on Blount Island that would provide the option of using unit trains, ocean barges down the east coast, or freighters from abroad—all of which would be cheaper than moving coal through the Cross-Florida Barge Canal in the small barges for which it is designed. The Blount Island facility will be large enough for use by Florida Power & Light as well—if it should convert its oil-burning plants at Sanford to coal.

MORE FACTS ON CFBC

At the time work was stopped on the canal in January 1971, the following had been constructed: 2 dams, 3 of 5 locks, and 4 of 11 highway bridges, and 25 of the

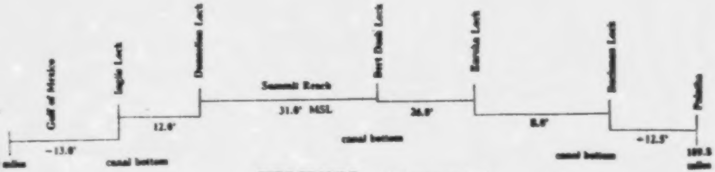
109 miles of canal channel have been dredged—9 miles of which are out in the Gulf of Mexico.

In the years since the canal was halted the COE has spent an increasing amount on annual maintenance and operation. Last year, $1.6 million of taxpayers' money was spent on maintenance and operation for the project.

Design of the canal. The canal was designed to be 12 feet deep and 150 feet wide. It was planned that barges approaching from the west would be locked up to the level of Lake Rousseau by Inglis Lock, and then up to the Summit Reach by Dunnellon Lock (not yet constructed). After traveling the 28 miles of the Summit Reach from Dunnellon to near Ocala, the barges would be locked down the Oklawaha Valley in the Bert Dosh (not yet constructed), the Eureka, and finally the Buckman Locks. At that point the barges would be at the level of the St. Johns River.

Damage done by 1971. The 6-mile-long stub of canal that parallels the Withlacoochee River from Inglis to the Gulf of Mexico has permitted saltwater intrusion all along its length. Diversion of water from the lower Withlacoochee River to the canal has decreased flow in the river and permitted saltwater to move upstream.

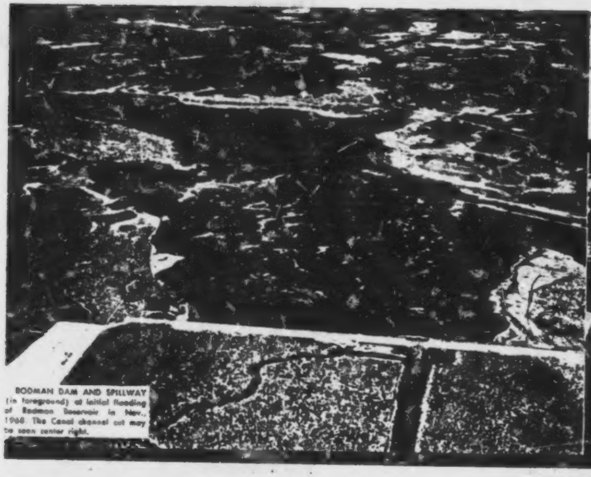
On the eastern end, 16 miles of the Oklawaha River Valley has been deforested and flooded. Rodman Dam, located 8 miles from the mouth of the Oklawaha, has prevented the normal migration of fish up and down this most important tributary of the St. Johns River. Fortunately, since Eureka Lock and Dam have never been operational, the 20 miles of the beautiful Oklawaha from Eureka to Silver Springs has been saved. Once Rodman Dam is removed, the flooded 16-mile section will restore itself in a relatively short time.



CFBC PROFILE MSL=mean sea level

Cross Florida Barge Canal

Cross Florida Barge Canal



RODMAN DAM AND SPILLWAY (in foreground) at initial flooding of Rodman Reservoir in Nov., 1968. The Canal channel cut may be seen center right.

Inglis Lock, westernmost and first among five completed, is identical in size with the others: 84 feet wide and 600 feet long.

St. Johns Lock, near Palatka, is one of five locks which will raise and lower boats and barges across natural elevation.

The present Cross-Florida Barge Canal was approved by Congress in 1942 with first construction funds in 1963; but it had been considered for more than 100 years and was actually started as a ship canal in the 1930s. Construction started February 27, 1964, with President Lyndon Johnson on the site and giving the signal.

The Barge Canal has been endorsed by the President of the United States and by Congress; by Florida's entire congressional delegation and the Florida Legislature; by the present and several past governors of Florida and the Florida Cabinet; the State Board of Conservation; The Florida League of Municipalities; the State Association of County Commissioners; Gulf Intracoastal Canal Assn.; the AFL-CIO; National Rivers and Harbors Congress; Florida Waterways Association; Florida East Coast Railroad . . . and many other groups and individuals whose own study of the project resulted in a determination that a completed Barge Canal will benefit all of Florida and the nation.

Economic and recreational advantages derived after completion of the Barge Canal will benefit all of Florida. In addition to the obvious assets from a low-cost bulk cargo transportation shortcut, the completed Canal will also aid in flood control and, in some cases, raise water tables. Beyond all this, the national defense aspects, alone, virtually justify earliest possible completion of the project.

"MAIN STREET, U.S.A."—that's what the Cross-Florida Barge Canal has been called. When completed, it will provide 105 miles of toll free, protected waterway across Florida from the Intracoastal Waterway near Jacksonville to deep water in the Gulf of Mexico near Yankeetown. The Canal will connect some 26,000 miles of inland water in 29 states in providing a water route from the Eastern Seaboard and Atlantic Ocean to the Gulf and Mid-continental U. S. A.—from New Jersey to Mexico.

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Barge Canal Fact Sheet

LENGTH: 185 miles from Intracoastal waterway near Mayport to deep water in the Gulf, 107 miles actual canal from St. Johns River near Palatka to deep water five miles out in the Gulf of Mexico near Yankeetown
EXCAVATION REQUIRED: 67,700,000 cubic yards
DEPTH: 12 feet
BOTTOM WIDTH: 150 feet
LOCKS: Five
SIZE OF LOCKS: 84 feet wide and 600 feet long
NUMBER OF DAMS: Three
RESERVOIRS REQUIRED: Three reservoirs with combined area of 30 square miles. Rodman Reservoir 13,000 acres, Eureka, 10,000 acres, Inglis, 3,500 acres
NEW SHORELINE: 234 miles
RECREATION AREAS: 36 public recreation sites proposed for development by Federal, state and local agencies
TYPE RECREATION: [illegible] fishing areas, swimming [illegible] hunting sites, picnic facilities, camp marina facilities, scenic overlooks, and cycling and bridle paths
OTHER BENEFITS: Two areas are being studied as potential wildlife areas. One in Putnam County near Rodman Dam would encompass about 4,000 acres of excellent habitat for waterfowl, turkey, and fur bearing animals
BRIDGES: Highways, 17, Railroads, 3
BRIDGE CLEARANCE: 65 feet vertical by 150 feet horizontal
BARGE CANAL COST: Federal $150,000,000
Non-Federal 16,000,000
Total $166,000,000

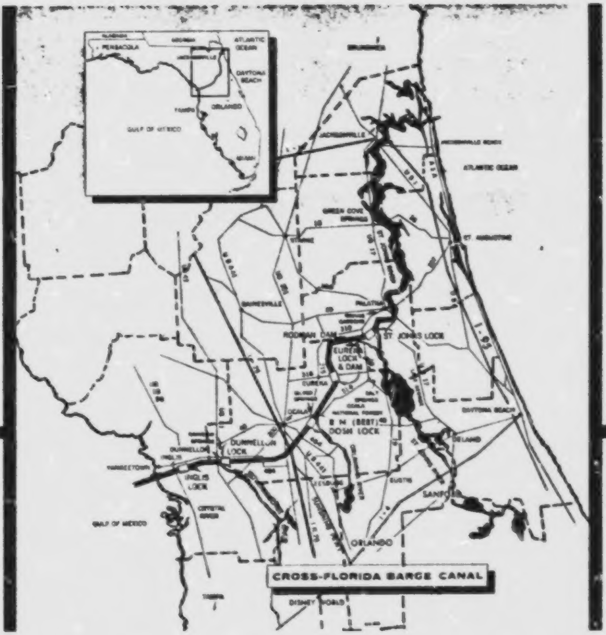
AIDS TO NAVIGATION

The U. S. Coast Guard will mark the Barge Canal by an elaborate system of buoys, range markers and beacons to insure safe navigation by day and night. Inland waterway aids to navigation generally have characteristic yellow markings which distinguish them from aids to navigation marking other waters. Information directional signs will be erected along portions of the waterway by the U. S. Army Corps of Engineers. When such signs indicate distance, statute miles will be used.

THE "MISSING LINK"

A proposed waterways system of vital interest to Florida and the nation is a segment of the Gulf Intracoastal Waterway known widely as the "Missing Link". The project, a 234 mile route from St. Marks (south of Tallahassee on the Gulf to Tampa) was authorized by the 90th Congress. The exact alignment will not be selected until a detailed ecological study has been completed, but the route will generally skirt the west coa line from St. Marks to Tampa Bay.

The waterway [illegible] be 12 feet deep and feet wide at the bottom (similar to the Cross Flo Barge Canal). Commerce would include coast movements to and from Tampa, plus Cross Fl Barge Canal traffic. The completed project w link Florida with major markets in the mic and weld together 26 states by protected w ways.


PENSACOLA
ATLANTIC OCEAN
DAYTONA BEACH
TAMPA
ORLANDO
GULF OF MEXICO
MIAMI
BRUNSWICK
JACKSONVILLE
JACKSONVILLE BEACH
ATLANTIC OCEAN
GREEN COVE SPRINGS
ST. AUGUSTINE
GAINESVILLE
PALATKA
RODMAN DAM
ST. JOHNS LOCK
EUREKA LOCK & DAM
EUREKA
OCALA
OCALA NATIONAL FOREST
DAYTONA BEACH
DELAND
B. H. (BERT) DOSH LOCK
DUNNELLON
DUNNELLON LOCK
YANKEETOWN
INGLIS
INGLIS LOCK
CRYSTAL RIVER
GULF OF MEXICO
LEESBURG
EUSTIS
SANFORD
ORLANDO
TAMPA
DISNEY WORLD
I-95
I-75
I-4
CROSS-FLORIDA BARGE CANAL

The Canal Authority

The Canal Authority of the State of Florida, which operat the supervision of the State Board of Conservation, is charg acquiring rights of way for the Barge Canal with local (1 county) funds. Actual Canal construction is a federal project Army Corps of Engineers.

The five-man Canal Authority, appointed by the governor, in-

L. C. RINGHAVER, ST. AUGUSTINE, Chairman
GEN. SUMTER L. LOWRY, TAMPA, Vice-chairman
JOSEPH MARQUES, PENSACOLA, Secretary
EUGENE MARKS, [illegible] Treasurer
DAVID W. JACKSON, JACKSONVILLE, Ass't. Treasurer

STAFF MEMBERS

Col. Giles L. Evans, Jr. (USA, ret.), Manager	Col. Thomas F. Collins Assistant Manage
Ralph E. Elliott, Jr. Legal Counsel	Joseph A. Livingston, Jr. Public Information Consu

* * *

The State Board of Conservation is made up of the full state with the governor as chairman and secretary of state, vice-ch

Claude R. Kirk, Jr., Governor

Tom Adams Secretary of State	Earl Faircloth Attorney General
Fred O. Dickinson, Jr. Comptroller	Broward Williams Treasurer
Floyd T. Christian Supt. of Public Instruction	Doyle Conner Commissioner of Agricultur

W. Randolph Hodges
Director, Board of Conservation

CANAL AUTHORITY OF FLORIDA
803 Rosselle Street
Jacksonville, Florida 32204
Telephone (904) 356-0408

[From the Ocala (FL) Star-Banner, August 31, 1977]

"SAVE THE LAKES" MOVEMENT GETS WIDE SUPPORT

(By Jim Smith)

The drive to save Lake Oklawaha from being drained was met with near-unanimous approval Tuesday night during a public hearing at the Southeastern Livestock Pavilion.

Only two persons in the crowd of 75 indicated they agreed with a state advisory task force recommendation to drain the large reservoir and return the Oklawaha River to its original free-flowing state.

At least 14 others, including U.S. Rep. Bill Chappell and the five Marion County Commissioners, voiced strong opinions against spending tax money to destroy what tax money built.

No definitive action was taken. Said commission Chairman Murray Fugate, who presided over the hearing, at the onset: "The commission would like to have the feelings of the general public on what they want the fate of Lake Oklawaha to be.

"There will be no official action. The commission has already voted unanimously that we want Lake Oklawaha preserved."

Chappell set the tone of the hearing with a thundering denouncement of those who seek to drain the lake, a popular fishing and recreational spot at the northern tip of the county.

"It is the most absurd thing in my life to think that logical, sensible men would want to draw down Lake Oklawaha," said Chappell.

Waving a House of Representatives document over his head, he continued by saying that "there is a lot of fact and a lot of fiction going on. This document reflects absolutely the summary of all the study that has been made. This is the fact, not the fiction about Lake Oklawaha."

The document was a 48-page report on Cross Florida Barge Canal hearings conducted before a subcommittee of the House Committee on Appropriations.

State Sen. Pete Skinner, proclaiming himself a bass fishing enthusiast, said he didn't know at the present what the best solution would be. But he said he intended to find out.

"I'm going to find in my opinion what's best," he said. "All I am is one state senator. But I'll tell you one thing—I'm going to watch this close. This thing's going to be done right and you can bank on it."

Opposition to saving the lake was furnished in the form of a Florida Defenders of the Environment, Inc. handout.

The four-page paper, which Fugate read aloud, concluded that the restoration of the river valley forest in the Rodman Reservoir area was both technically feasible and economically reasonable. The summary stated that restoration would have no detrimental effects on present or future state water supplies. It further stated that the long-term returns from recreation, fishing and tourism would be many times greater than the benefits of retaining Rodman Reservoir and would repay the initial investment many times over.

Margy Bielling, Ft. McCoy, distributed the FDE handout. She didn't wish to make a statement in behalf of the FDE, although she raised some questions.

"If Rodman Reservoir is such a plus for the ecology," she asked, "then why are so many ecologists—professional ecologists—why are they opposed?"

Commissioner Leroy Douglas replied by saying that "every time you get a bunch of experts together you find a few fools."

Douglas said "we have to preserve what we've got. This is what we're trying to do in Marion County. It isn't just for Marion County. It's for the state of Florida. You can't live without water."

Robert Jacobs, a Silver Springs resident who represented himself, favored returning the river to its original state.

"Some of the environmental problems we now have are due to man's tampering with the ecosystem," said Jacobs. "For example, hemming up a river that wants to flow freely.

"I advocate deregulation of man's imposed order. Let the river run free and work for us."

Others making a stand to preserve Lake Oklawaha included Mayor Doug Oswald, Chamber of Commerce President Malcolm Duggan and members of the Save Lake Oklawaha steering committee.

Said Oswald: "I thought we were supposed to spend tax money to build things, not destroy them. To take this lake and spend millions to put it back into a swamp—that's ridiculous."

Commissioner Paul Melin said the suggestion to drain Lake Oklawaha "is entirely absurd in my estimation."

Tom Needham, chairman of the Save Lake Oklawaha steering committee, said of the reservoir: "We bought it, we paid for it, it's ours.

"We do not want to create problems," he added. "We are going to try to put together all the facts. We are neither for or against the canal. We are there to save Lake Oklawaha."

The Save Lake Oklawaha Committee, which opposes any changes to the lake until additional research has been done, requested the hearing.

[From the Ocala (FL) Star-Banner, June 1985]

Barge Canal Would Head Off Any Water Problem

To The Editor:

Just about every day now we get a warning from the editors of the *Ocala Star-Banner* of an impending water shortage and the need for serious planning to prevent a disaster in the future, with one of the editors stating he could foresee the time when a water company could buy the flow from Silver Springs supposedly to divert it to south Florida.

Now it would be very interesting to see what these gentlemen would do if they sat on a water planning board. It is very easy to call on others to do something without any advice as to what should be done.

If it had not been partly for the efforts of these same gentlemen and their bosses, The New York Times, we would have had facilities already in place to forestall all these calamities that they can so clearly see ahead, at only a fraction of the cost of what must be done now, and that is the completion of the cross state canal, and right here I would say to these gentlemen, if you have a plan that would raise our water table two feet in a 60 mile radius of the canal, and if you have a plan that would hold untold billions of gallons of precious water in reserve, and if you have a plan that would create a water recreation area second to none with commercial usage added in, come on tell us about it, you have an entire newspaper at your disposal.

It would seem that all the opponents of the canal can see is the pristine beauty of the Ocklawaha will be destroyed, what do they think the Ocklawaha would look like if all the flow of Silver Springs was pumped to Orlando?

I believe that the best service that the *Star-Banner* and the county commissioners could do for the people of the state of Florida would be to go to the canal hearing at Palatka on June 10 and beg for the canal's completion, while the federal government is doing the financing, or the people of Florida might find themselves trying to finance some very expensive alternates in the very near future.—O.G. Fulford.

[From the Ocala (FL) Star-Banner, September 18, 1983]

Canal Foes Afraid of New Economic Study

To the Editor:

It is easy to understand why U.S. Rep. Buddy MacKay told the Board of Marion County Commissioners that there would not be another study of the Cross Florida Barge Canal.

MacKay, Sen. Lawton Chiles and the other opponents of the canal project are afraid that the new study by the U.S. Corps of Engineers will show that the canal would be economically feasible, show a profit and be of great benefit to everyone in Florida. There is little doubt that under present conditions this new report will show that the canal would pay for itself in a reasonably short time.

The canal is the missing link in the entire U.S. waterways system east of the Rocky Mountains. It would connect every river and canal of this system with the Florida waterways system on the Florida east coast. It eliminates the more than 1,000 mile trip around the Florida peninsula to get to the east coast of the United States. Everyone knows that shipping by water is much more economical than shipping by rail.

Some of the opponents of the canal want to get the land back that they sold to the government 12 years ago. They can sell it now for 4 times what they got then. Other opponents are ignorant and just think it's a "pipe dream."

Cries of damage to the environment hold no weight, despite cries of the Defenders of the Environment in Gainesville and elsewhere. Reps. Chappell and Charles

Bennet of Volusia and Duval counties respectively will continue the fight for the canal and it is hoped Sen. Paula Hawkins will join them.—Major Holbrook Scott, U.S. AF (Retired).

[From the Ocala (FL) Star-Banner, August 13, 1983]

WHERE IS "WIDESPREAD OPPOSITION" TO CANAL?

(Editor's Note: The canal is opposed by the Florida Legislature, the state cabinet, the governor, 80 percent or more of this state's congressional delegation, numerous governmental and citizen groups all of the state, and most major newspapers in Florida. Even the Corps of Engineers, which once said the project would return substantial benefits, now concedes it would not. Mounting evidence shows it would never repay its investment of tax dollars. In addition, many Floridians are fearful of environmental damage that could include pollution of the state's underground water supply.)

To The Editor:

I have lived in Florida the past 10 years, but in the Ocala area only slightly over a year. As an avid boater who has had full and free use of the locks on the Great Lakes, the Illinois River, the Mississippi, the East Coast I.C.W., plus our lovely Caloosahatchee, I became interested in the debate concerning the completion of the barge canal.

One point puzzles me, why, and on what basis, do you keep printing that there is widespread opposition to the canal? In an attempt to form an opinion, I have asked many their views on the project, and have received replies from complete dis-interest to many who thought it beneficial, and a few who worried about the aquifer. While I admit my sampling was small, about 100, by no means did I sense a people's mandate to kill the project.

Until now I have felt that your editorial viewpoints have been fair, even if I did not share them. Is what's best for Florida, and the U.S.A. going to be decided by a few very vocal protesters? Mr. Editor, what is your rush to scrap this project with the millions already invested? I for one need more and better information to make a decision.—David P. Kelly.

[From the Ocala (FL) Star-Banner, October 20, 1984]

CANAL WOULD OPEN UP INLAND WATERWAY SYSTEM

To The Editor:

The eastern two-thirds of the United States is covered with a vast system of natural and man-made waterways that are navigable.

The basic elements of this waterway system are the Mississippi, Ohio and Missouri rivers. Numerous smaller rivers connect with these three and flow down to the Gulf of Mexico and connect with the Gulf Inland Waterway. It flows along the Gulf down to Tampa/St. Petersburg.

Connected with the rivers are numerous canals constructed by states and the federal government to facilitate transportation of manufactured products, grain, coal and other materials as well as cattle. Many of these small canals are in Iowa, Wisconsin and other midwestern states for coal transportation to the factories along the Mississippi River. One canal, the McClellan-Kerr Arkansas River Navigation System, runs from Tulsa, Okla., 1,000 miles to the Mississippi River above New Orleans. These canals provide the lowest cost transportation possible. This low cost transportation is denied the businesses of the eastern one-third of the United States, who want to ship their products to the Atlantic Coast. The reason is that there is no way to get to the east coast without sailing 2,000 miles around the state of Florida.

The Cross Florida Barge Canal will open up the entire system of inland waterways for water transportation from the Midwest to New York, Philadelphia, Baltimore and other important east coast markets. This canal is one-third completed. There is no question that with the great need for low-cost shipping this canal would be used to capacity.

Don't let anyone tell you that the canal will obstruct our supply of water. It will only be 15 feet deep, and our water lies much deeper than that.

The matter of completing the Cross Florida Barge Canal will come before the next session of the U.S. Congress. Every senator and U.S. representative should vote to complete the canal for the benefit of their constituents who are in business requiring shipping to the Atlantic Coast from the Midwest and the Farwest.—Major Holbrook Scott, USAF Retired.

10 June, 1985

MR. CHAIRMAN, Members of the Committee:

My name is Ralph E. Elliott, Jr., an attorney in Jacksonville, Florida. From May, 1967, to June, 1979, I was the general counsel for the Canal Authority of the State of Florida, the local sponsor for the Cross Florida Barge Canal.

During my first 4 years in this capacity, most of the time was spent in land acquisition, a part of which was in condemnation proceedings. In this acquisition we acquired various types of title, according to requirements of the U.S. Army Corps of Engineers and the law which the Courts made. As a result we acquired fee title, Fee title subject to a reservation of access from remaining land to the water's edge, easements for the purpose of the construction, maintenance and operation of the canal. In each of the cases which involved only a partial taking of owner's land, severance damage to the remainder was offset by the prospect of having waterfront land after construction.

Lake Ocklawaha, the first reservoir created near Palatka, is owned either by the U.S. or Florida in fee title or easement. The latter consists of about 7,000 acres of the 13,000 acre lake. Under current law deauthorization would act to terminate the easement under this excellent recreation facility and ownership of the lake bottom revert to the underlying fee owner.

Since President Nixon halted construction in January, 1971, most of my efforts were to have his action declared unconstitutional, which a Federal Judge did in February, 1974. In that 7 week trial all of the charges of the environmentalist plaintiffs--Environmental Defense Fund and Florida Defenders of the Environment--were met and answered. The most serious charge was that the Chief of Engineers in his letter to the Congress in 1942 had misrepresented the truth when he stated that the project would not adversely affect the groundwater of Florida. Three eminent geohydrologists, two who had studied the geohydrology of the project for over 30 years, testified that in their opinion there was no reasonable scientific probability that any damage to the Florida Aquifer would be caused by the construction, maintenance and operation of the project. The Court found that the Chief of Engineers had ample evidence for his statement to the Congress. An environmental impact statement was ordered before any further construction or dismantling could take place. $2 million later this EIS was completed and hearings held before the House Energy and Water subcommittee which found that the project could be completed with no substantial damage to the environment and no damage to the Florida Acquifer.

It has puzzled me since Congressman McKay was in the Florida house why he was adamantly opposed to this project. Efforts on my part to discuss it with him in Tallahassee were to no avail; he wouldn't or didn't want to listen.

The only possible reason in my opinion is that the Canal Authority took 65 acres of a 600 acre tract of the family land. McKay represented them in the condemnation trial and was awarded the exact sum testified to by the Authority appraiser. Deauthorization would most certainly allow him to recover this land, and it seems that he has a serious conflict of interest in attempting to bring about deauthorization. Thank you for allowing me to speak this morning.

RALPH E. ELLIOTT, JR.
207 Florida Theatre Bldg.
Jacksonville, Florida 32202
(904) 356-6047

To:

The House of Respresentatives Committee on Water Resources
Palatka, Florida
June 10, 1985

I am the owner of four business firms, one of which operates eight stores in five counties in central Florida. I am a Past President of the Ocala/Marion County Chamber of Commerce, a Past President of the Kiwanis Club of Ocala, a Past Lt. Governor of Florida District Kiwanis, Past President of the Baptist Brotherhood of the First Baptist Church, Ocala, Florida, Past President of the Central Florida Office Machine Dealers Association, and Past President of the United Way of Marion County. I am currently Chairman Elect of the Industrial Developement Council of Ocala/Marion County, President Elect of the Florida Office Products Association and active on numerous boards and committees.

I enumerate all this only to indicate to you my sincere, dedicated interest in my community, county and state.

I support the completion of the Cross State Barge Canal because I feel that it will have a beneficial economic effect on the local area as well as a help to barge traffic between many states in the eastern half of the United States. Other benefits to construction would be water retention and recreational benefits to the rapidly growing population centers along the canal. Another benefit, which is hard to visualize during the drought we are in, would be the ability to handle flood waters when they occur, and they will occur in the years ahead.

I hope that you will consider the many advantages as you weigh the future of this important project.

Yours very truly,

David Lee Skipper

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Ocala, Florida 32671

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RALPH E. ELLIOTT, JR.
(904) 356-6047

21 June, 1985

Chairman Rowe
House Subcommittee on Public Works
Washington, D. C.

Dear Mr. Chairman:

I enjoyed attending your subcommittee hearing in Palatka, Florida, on the Cross Florida Barge Canal project and was impressed with the manner in which you chaired the committee as it heard testimony on this highly politicized project.

During the testimony of George Linville you accepted into evidence the Order and Judgment of the Court which heard the canal case in 1973. I have obtained a copy of it from the District Court Clerk's office and enclose for filing in the record.

As I expressed then I hope that your committee see the bng-term benefits of this project as part of a national system of waterways, and do not deauthorize it until after the current economic study is completed, or until state leadership is comprised of men of the vision of those have planned and dreamed of this project over the last 150 years.

Thanks again for coming to Florida.

Sincerely,

Ralph E. Elliott

Ralph E. Elliott, Jr.

Encl

FILED
JACKSONVILLE, FLA.
FEB [illegible] 1974
WESLEY R. THIES
CLERK

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
JACKSONVILLE DIVISION

THE CANAL AUTHORITY OF THE STATE OF FLORIDA, et al., Plaintiffs, v. HOWARD H. CALLAWAY, SECRETARY OF THE ARMY, et al., Defendants.	No. 71-92-Civ-J
THE CROSS-FLORIDA CANAL ASSOCIATION, Plaintiffs, v. HOWARD H. CALLAWAY, SECRETARY OF THE ARMY, et al., Defendants.	No. 71-486-Civ-J
ELEANOR H. MILLER, et al., Plaintiffs, v. AVERY S. FULLERTON, et al., Defendants.	No. 71-489-Civ-J
ENVIRONMENTAL DEFENSE FUND, INC., et al., Plaintiffs, v. CORPS OF ENGINEERS OF THE UNITED STATES ARMY, et al., Defendants.	No. 71-652-Civ-J
J. G. PERKO, Plaintiff, v. THE CANAL AUTHORITY OF THE STATE OF FLORIDA, etc., et al., Defendants.	No. 71-26-Civ-Oc

OPINION AND JUDGMENT

JOHNSEN, Senior Circuit Judge*

These five cases have been the subject of a consolidated trial on the merits. One of them (Environmental Defense Fund [EDF] suit, No. 71-652-Civ-J) had earlier been transferred from the District of Columbia district under 28 U.S.C. §1407 for consolidated pretrial proceedings here and was later by agreement subjected to a general transfer under §1404(a) for full venue purposes in this district.

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*Harvey M. Johnsen, Senior Circuit Judge of the Eighth Circuit, sitting by designation.

I.

Nature and history of the situation.

The cases consist of environmental litigation relating to the Cross-Florida Barge Canal generally, but most particularly to the portions of the Oklawaha River channel and flood plain which have been included in the project. One such segment had prior to the litigation been incorporated in a reservoir structure (Rodman Reservoir or Pool), which was completed in 1968 and constituted one of the principal components in the planned canal system. A further segment had been intended to be incorporated in another reservoir structure (Eureka Reservoir) as a next major phase in the construction, with the dam and lock therefor having essentially been completed.

The Barge Canal was a public works project authorized to be constructed by the Army Corps of Engineers (COE) under Public Law 77-675, enacted in 1942, but with no funds being appropriated therefor at the time because of war time priorities. Such an appropriation was first made in 1963, and work on the project was accordingly commenced in 1964 and was proceeded with thereafter under annual appropriations until January 19, 1971.

On that date, the President of the United States, through a White House press release, announced that on recommendation of the Council on Environmental Quality (CEQ) [42 USC §§4341-4346], "I am today ordering a halt to further construction of the Cross Florida Barge Canal to prevent potentially serious environmental damages

* * *", with the statement making specific reference to the Oklawaha River, which it characterized as a "national treasure" that "would be destroyed by construction of the Canal". The statement further contained a directive that "I am asking the Secretary of the Army to work with the Council on Environmental Quality in developing recommendations for the future of the area." The only written form the order has had is the press statement.[1]

The purpose of the authorizing legislation had been to create a waterway across the northern part of Florida. This in the Canal's confluence with the St. Johns River would enable cargo to be transported by barge between the Gulf of Mexico and the Atlantic Coast without having to be moved around the tip of the Florida peninsula. The Canal as designed was to have a length of approximately 107 miles. Embraced in this, as noted, were the portion of the Oklawaha River channel and flood plain which had been incorporated in the Rodman Reservoir and the portion which had been intended to be incorporated in the Eureka Reservoir, as well as a smaller segment extending from the Rodman Dam to the

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[1] As a matter of fact, a few days before the President's order Judge Barrington Parker, of the District of Columbia district, had made a general oral grant in the EDF suit of a preliminary injunction against further construction of the canal, but this oral grant was not made the subject of a written signed order of specific terms until approximately a week after the President's order. See *EDF v. Corps of Engineers*, 324 F.Supp. 873 (D.D.C. 1971). There is nothing to indicate or suggest, however, that the President's order had been prompted by or bore any relationship to the oral injunctive grant.

St. Johns River.[2]

Some 40 miles of the Oklawaha River's approximately 70-mile length, in its tributarial flow northward and then eastward into the St. Johns River from its source in a chain of lakes in the central peninsular highlands, thus were involved in the canal project.

While the Federal Defendants in the EDF suit (the only one then pending) had up to the time of the President's order been opposed to any termination or halting of the Canal project and had resisted the motion in that suit for a preliminary injunction (see fn. 1) they became stripped of their previous position on that question by the President's order and the conformance necessary on their part thereto in their Executive Branch constituency. In the posture in which the EDF suit thus was left, the Canal Authority of the State of Florida (the State agency charged with the responsibility of acquiring and making available to the United States the land titles and easements necessary for the Canal right of way) intervened in the case for the purpose of preserving the adversary character thereof and safeguarding against the possibility of any prejudicing or complicating actions being unchallengedly taken therein.

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[2] A sketch of the planned Barge Canal appearing in the press has been set out in Appendix A for general orientation.

Historically the construction of a waterway across northern Florida had recurringly been urged for more than a century, and a number of studies had throughout that period been made in relation to the question. As proposed during that time, the facility was to consist of a sea-level canal. Among those who had favored it were Presidents John Quincy Adams, Andrew Jackson and Theodore Roosevelt. Ultimately in 1935, President Franklin D. Roosevelt made allotment of some $5,000,000 out of an appropriation for a public-works relief program as an initial step in the canal's construction. Objections on the part of railroads, southern Florida interests and other opponents resulted in further funds not being made available for construction of the canal. The situation thus stood until 1942, when Congress, largely in reaction to the heavy shipping losses which had been occurring around Florida from German submarines, enacted Public Law 77-675 authorizing the construction of a high level lock-type facility. The lock canal project had been approximately 30 percent completed at the time of President Nixon's 1971 halting order, with some $50,000,000 of Federal funds and some $12-14,000,000 of State and local tax monies having by that time been expended in incidence to it.

Additionally, the Canal Authority instituted a separate action in this district (Canal Authority case, No. 71-92-Civ-J) for declaratory and injunctive relief in respect to the President's order on the threatened actions of the Federal Defendants in conformance thereto. This was followed by the institution of the other three suits similarly seeking declaratory and injunctive relief: the Canal Association case, No. 71-486-Civ-J; the Miller case, No. 71-489-Civ-J; and the Perko case, No. 71-26-Civ-Oc. Intervention was permitted to be made in the Canal Authority case by the Jacksonville Port Authority; in the Canal Association case by the Board of Commissioners of Marion County; and in the Miller case by the Board of Commissioners of Putnam County.[3]

The Federal Defendants had after the President's order indicated an intention to draw down the water of the completed Rodman Pool (to which Congress had a short time before given the official name of Lake Ocklawaha by Pub. Law 91-637) from 18 feet above mean sea level (m.s.l.) to 13 feet. Such a drawdown would, the Canal proponents contended, alter the status quo which then existed as to the completed Pool or Lake; would change the environmental and ecological conditions which had been created by the construction and the filling of the Pool, not merely as a Canal component but in the values which had come to exist from its substantial and increasing public use as a recreational facility; and would also impinge upon the benefits to owners of the lands adjacent to it in the relation which these elements bore to the takings, sales and grants of titles and easements that had been involved in the creation of the Pool.

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[3] Instead of making enumeration of the Federal Defendants here (of which there were more in some suits than in others) a list of the parties in the several cases, both those initially named and those subsequently added, has been set out in Appendix B.

The lowering of the water level of the Pool was contended by the Federal Defendants to be intended, while the President's directive was being carried out as it related to what should be done to the Pool with the Canal terminated, to save some trees in the upper regions of the Pool, which had not been cleared or crushed down as had the great majority of them when the Reservoir was constructed. The comparatively smaller number thus remaining had designedly been left to provide a favorable fish habitat for enhancement of the Pool's use and value as a recreational facility.

The Canal proponents have urged that the Rodman Pool stood as a symbolization in the public mind of the Canal project itself; that the drawdown would therefore primarily serve and was intended as a tactical measure to cause the public to believe and resignedly accept as a fact that the doom of the Canal had actually occurred from the President's order; that it would be inherently unfair to allow the President's order to be thus tactically employed to confuse the public in relation to the status of the Canal situation because the order as an attempted termination of the Canal project was legally invalid in being violative of the separation of powers doctrine; and that beyond this, if the President could have had any power whatsoever to touch the Canal project, any such intended touching that would significantly affect its created environmental conditions and other values would, as a matter of public policy established by the provisions and requirements of NEPA, 42 U.S.C. §4321, et seq. have had to be disclosed and an environmental impact statement (EIS) prepared by an agency or official appropriate under NEPA to perform the task, in order to provide the public with such information as would entitle it to make a decisional judgment of its own on the situation.

In the circumstances initially appearing, a preliminary injunction against the threatened drawdown was granted by Judge Scott of this district on an application made in the Canal Association case. The injunction was later extended by me to all of the cases, on an independent hearing held in relation to the suits after their consolidation for pretrial purposes. This injunctive aspect will be further dealt with below in the relation thereof to the general determination which is being made herein as to the whole situation.

The President's order had, as noted, contained a directive that the Secretary of the Army and CEQ should develop recommendations "for the future of the area". No such recommendations were, however, forthcoming until almost a year and a half after the President's order, when a report prepared by Dr. Lee Talbot, Senior Scientist of CEQ, and Robert Teeters, Chief of Policy Programs, Civil Works Directorate, Office of the Chief of Engineers, as the delegates of CEQ and the Secretary of the Army, respectively, was submitted to their principals, approved by the latter, and given public release by CEQ on May 18, 1972. The report characterized the President's order as having "terminated construction of the Cross-Florida Barge Canal" and the contents of the report as "presenting the recommendations requested by the President for the Oklawaha River basin area of the Cross-Florida Barge Canal project". No other portion of the Canal project was dealt with in the report.

As here material, the recommendations of CEQ and the Secretary of the Army were in substance: (1) that the portions of the Oklawaha River incorporated in the Canal project should be designated as a study river for potential inclusion in the National Wild and Scenic River System, 16 U.S.C. §1271 et seq, with an immediate drawdown to be made of the water level of the reservoir pending such potential designation and the study results thereof in order to try to obtain a maximum survival of the trees remaining in the reservoir; (2) that the proclamation boundary of the Ocala National Forest, which then reached to the middle of the Oklawaha River channel as here involved, should be administratively extended to take in fully the portions of the Oklawaha basin included in the Canal project; and (3) that the lands and easements for the Canal right of way held by the Canal Authority should be taken over by the Federal Government in "appropriate acquisition consistent with potential designation as a wild and scenic river and proper consideration of the equities".

These recommendations coincided with proposals which had been made by the Forest Service in a draft "Plan for Managing the Ocala National Forest", released to the public in May, 1971, and in the more formal and detailed "Ocala Plan" adopted by the Forest Service in April, 1972. Release of the CEQ and Secretary of the Army's report followed the release of the Forest Service's adopted Ocala Plan by about a month, with a statement in the report that "Pursuant to the National Environmental Policy Act of 1969, a draft Environmental Impact Statement has been prepared by the Forest Service and is available today". The Forest Service's draft EIS had been filed with CEQ and was given public release on May 26, 1972. A final EIS by the Forest Service was filed with CEQ approximately eight months later, on January 16, 1973.

Subsequent to the release of the Forest Service's draft EIS and the lodging of copies thereof with both Houses of Congress, Congress appropriated the sum of $150,000 for the purpose, as expressed in the Committee Report (H.R. No. 1151, p. 23, June 1972, to accompany H.R. No. 15586) of having a study and evaluation made of the whole Canal project by the Corps of Engineers and an EIS submitted thereon so that Congress could have the means for appropriately determining what action as to the whole Canal situation should be taken by it, and not have the matter brought before it on merely a part of the project, as the Forest Service's draft EIS indicated was intended to be done.

The $150,000 appropriated funds were, however, refused release by the Executive Branch and were subjected to impoundment by the Director of the Office of Management and Budget. Thus no such EIS as intended by the Congressional appropriation has been permitted by the Executive Branch to be prepared and submitted by the Corps of Engineers in study, evaluation and proposal as to all of the Canal project, but Congress has instead been presented only with a final EIS prepared by the Forest Service dealing with only the

Oklawaha River portion of the project and leaving the rest of the project, both in its completed and uncompleted parts, in limbo.

II.

Issues involved.

On these aspects and some further elements from the trial, the principal questions in the litigation strip down to the following:

(1) Did the President's order of January 19, 1971, constitute an attempted executive termination of the Barge Canal project?

(2) If so, did the President have the power to put an end to the Canal project by executive fiat?

(3) If not, (a) could the President's order nevertheless be allowed to have the effect of halting further construction of the Canal until there had been a study, evaluation, and an environmental impact statement (EIS) under the National Environmental Policy Act (NEPA) done by some agency or official appropriate under the Act to carry out the task; and (b) if the order were allowed to have that effect, could this be permitted to extend in incidence to an altering of the status quo or any significant conditions thereof which had come to exist from the construction work done (particularly here the status of the completed Rodman Pool, the environmental conditions created thereby and the recrational uses and benefits existing therefrom)?

(4) Could the Forest Service properly be allowed under NEPA to make proposals for action and prepare an EIS on the Barge Canal situation in the status thereof as a Corps of Engineer's project?

(5) If so, was the Forest Service's final EIS, here legally defective in being premised on and having dealt with the Canal

situation on the basis that the President's order had validly put an end to the project?

(6) Whether or not the Forest Service's EIS was thus defective, would it otherwise be inadequate under NEPA because of its failure to deal with the whole Canal project; and also in not indicating solutions to the problems which its proposals would create, such, for example, as the drainage problem that would come to exist in relation to the Four Rivers Basin?

(7) If the Forest Service's EIS might otherwise have been adequate, would it be rendered insufficient in the situation because of the $150,000 appropriation made by Congress to have a study, evaluation and an EIS prepared by the Corps of Engineers on the whole Canal project and with the expression contained in the Congressional Committee Report accompanying the appropriation measure, on what the study and EIS dealing with the Canal matter should include?

(8) Should the Director of the Office of Management and Budget be required in the circumstances to release and make available the $150,000 funds to enable the desire of Congress to be carried out? If so, ought the status quo and the conditions of the Rodman Pool as presently existing (which had been established before NEPA was enacted) be kept from being materially altered until the EIS desired by Congress had been provided? Particularly in this connection was the evidence such as to require a finding and conclusion that the lowering of the water level of the Rodman Pool from 18 feet to 13 feet for an unlimited period would occasion only relatively insignificant and readily reversible changes and consequences to the Canal situation, so as not to be substantially prejudicial if the decision of Congress should ultimately be that

The Rodman Pool was to be allowed to remain and be maintained, whether as an element in a continuation of the Canal in its original or a modified form, or as a separate recreational facility?

(9) Finally, as related to all this, is the presently existing injunction against lowering the Rodman Pool entitled to be continued and made permanent until Congress has thus decided the fate of the whole Barge Canal project, and/or the fate of the Rodman Pool as an independent recreational facility, or are the aspects involved in any event such as compellingly to require in the public interest that the injunction now be modified to allow the drawdown sought regardless of what the ultimate decision of Congress might be as to the future of the project?

III.

The Federal Defendants and the plaintiffs in the EDF suit stood in alignment at the trial on the one side of the foregoing questions and the plaintiffs in the other four suits on the other side. Beyond these central questions, the EDF plaintiffs had asserted some additional claims as to the Canal situation which paradoxically both the Federal defendants and the Canal plaintiffs contended were without substantiality or were in any event moot. Also, the Perko suit had asserted a separate claim of adjacent property-owner and grantor rights to have the Rodman Pool maintained as a recreational facility, whether as a part of the Canal project or independently. These additional claims will be briefly referred to later, but discussion will first be made of the common questions set out above.

IV.

The President's order of January 19, 1971.

(1)

(1) The evidence clearly establishes that the President's order was intended as an executive termination of the Barge Canal project. The recommendation made by CEQ in its Memorandum to the President, on which the President's press statement indicated that his order was based, was for "termination of the Cross-Florida Barge Canal". The word "termination" was used twice in the Memorandum. More directly indicative, after White House Press Secretary Ziegler had made announcement and distribution of the President's order, he was asked by a member of the Press whether the directive therein for "developing recommendations for a future of the area" was meant "to leave open the possibility that some canal may go through there", to which he gave this answer: "No, it does not. It relates specifically to how the area should be used, but it does not relate to a canal in the future". Beyond this, Dr. Talbot, the official delegate of CEQ, and Mr. Teeters, the official delegate of the Secretary of Army, both frankly testified at the trial that in their designation to carry out the directive of developing recommendations, they were instructed by their principals that the question of any continuation of the canal was not an option which was open to their consideration.

Still further, Mr. Whitaker, the White House Deputy in environmental matters to Presidential Assistant John D. Ehrlichman, at a meeting of Dr. Talbot, Mr. Teeters and others, held in relation to developing recommendations under the President's order, and attended by Mr. Whitaker as the White House representative, similarly stated that the Canal was to be treated as being ended. And finally, it is clear from the evidence that in the preparation of an EIS as to the situation, which the Forest Service had suggested that it be allowed to undertake and to which Dr. Talbot and Mr. Teeters and the representatives of the other departments and agencies present all assented, it was understood and accepted by all that the EIS was to proceed on the basis that the Canal project had been terminated.

(2)

I am unable to regard the President as having any general executive power to terminate whatever legislatively authorized public-works projects he chooses, even though he may believe that it would be in the public interest to have some particular project or projects put to an end. Nor am I able to rationalize any basis, on constitutional principle, or within democratic political philosophy, or from our national experience, that could in my opinion even arguably be contended to make the existence of such a general executive power desirable. Too much opportunity and possibility of purely political action and favor, or of other official arbitrariness, exists for the concept to be reconcilable with or at all tolerable under the protective design of our political system.

Or to put the situation here into specific context, the authorization and nature of the Canal project, the history underlying it, its sizeable scope, the amount of public funds, Federal and State, which have gone into it, the status quo and the environmental conditions which have been created as to it, the complexities possible of being involved from the takings, sales and grants of titles and easements which have occurred, and the $150,000 appropriation made by Congress subsequent to the President's order and after release of the Forest Service's draft EIS, for the express purpose of having the whole canal project environmentally and economically evaluated and brought before Congress by an EIS engaged in on that basis, seem to me inherently to demonstrate that such substantialities of legislative function, policy and prerogative are involved as to make the question of continuation, modification or termination of the Canal one that is within the separation of powers doctrine and to entitle Congress to demand that the provisions of NEPA be given application in the particular situation on the basis requested by it.

The general declaration of Mr. Justice Brandies in his dissenting opinion in Myers v. United States, 272 U.S. 52, at 240, bears repetition here:

> "The doctrine of separation of powers was adopted by the Convention of 1787, not to promote efficiency, but to preclude the exercise of arbitrary power."

The President's order of intended termination of the Barge Canal project must be held to be invalid.

(3)

But while the President's order could not constitute a termination of the Barge Canal project or entitle naked administrative actions to be engaged in on that basis which would materially affect significant environmental and other values that had previously been established, the order could still be allowed in my judgment to have the effect of halting further construction of the Canal while a proper study and evaluation and an EIS under NEPA were being made by an agency or an official appropriate under NEPA to carry out the task, as to the whole Canal situation. In fact, up to the time that the evidence at the trial established beyond question that the order was intended as an attempted termination, I had declared in a Memorandum and Order dated February 25, 1972, that until the contrary was proven, I would regard the order simply "to intend and to attempt to put the Barge Canal situation into the posture of being considered and dealt with under (NEPA)" and would treat the directive for developing recommendations for the future of the area "as constituting a call for an impact statement [EIS] and for recommendations based thereon" relating to the whole Canal situation.

I have no doubt that the President would have the power to take such a temporary action (unless Congress saw fit to direct some contrary action in the matter), where, as here, no EIS existed in the situation. Such a power would be inherent in the general responsibility of the President to enforce the laws of the United States (here NEPA) or alternatively would exist in the present situation from his right to engage in such action on the basis of the chain of command which extended up to him if he chose to exercise it, through the Corps of Engineers, through the Chief of Engineers and through the Secretary of the Army, over such incidents as any of them had a right to engage in in relation to the Canal situation (which they had here in respect to having an EIS prepared).

Here no official EIS under NEPA had ever previously been prepared because the enactment of NEPA had not occurred until after the construction of the Canal was underway. When some opposition to the Canal project asserted itself, particularly to the construction of the Eureka Reservoir, the Corps of Engineers began the preparation of an EIS which, however, the evidence showed had not reached such a stage of development as to constitute an adequate EIS in the situation at the time of the President's order. Upon the issuance of the President's order, the Jacksonville District Office of COE was directed from higher level in the chain of command existing as to it to discontinue the EIS and simply place in its files marked "Working Papers Only".

As indicated, I think the President properly could in the circumstances have called a temporary halt to further construction of the Canal for the purpose and for such period as would reasonably be necessary to have a study made and an EIS prepared under NEPA in relation to the whole situation.

Whether the EIS, which was prepared by the Forest Service, was one in which it was entitled to engage, and if so, whether it constituted in the circumstances an appropriate and sufficient one under NEPA in view of the course which it took, the matters with which it dealt, and the relationship thereof to the $150,000 special appropriation and the indication in connection therewith of the nature and,the scope of the EIS which Congress desired in the particular situation will be considered followingly.

V.

The right of the Forest Service to make proposals and prepare an EIS in relation to the Barge Canal project.

(4)

The Canal proponents contend that the Forest Service could not properly be allowed to make proposals and prepare an EIS in relation to the Barge Canal situation because of the Canal's status as an approved and ongoing Corps of Engineers project. I find and hold that this general contention is without merit.

First, the EIS here contained a proposal for legislation (authorization by Congress of a study of the parts of the Oklawaha River basin which had been included in the Canal project for potential designation as a wild and scenic river). The right of an agency or an official to make a proposal for legislation or to undertake to have a bill introduced into Congress covering the proposal is not a matter over which a court has any right of control. For a court to intrude itself into the question of the appropriateness of legislative proposals being made to Congress, whether by an administrative agency or by anyone else, and no matter what the subject matter thereof may be, would bring into play the separation of powers doctrine as between the Legislative Branch and the Judicial Branch.

In the orderly functioning of the Executive Branch, that Branch might inherently be entitled to regulate or control such actions as among the agencies and officials comprising its structures. But if it chooses to permit an agency or official under its structures to make a proposal for legislation, even as to a matter which primarily is within another agency's field (such as the proposal of the Forest Service here to affect the Barge Canal situation), this would not entitle the judiciary, in the absence of some statutory authorization, to declare the making of the proposal and the preparing of an EIS in relation thereto to be improper acts. These are of course matters which Congress is entitled and able to deal with in any call made upon it for the introduction or consideration of such a legislative proposal.

As to the proposals made in the EIS for the taking of administrative action (the extension of the Proclamation Boundary of the Ocala National Forest; the physical inclusion in the Forest area of the lands and easements held by the Canal Authority; the transfer to the Forest Service of jurisdiction over these lands and the "structures associated with the Cross Florida Barge Canal along the Oklawaha River in Marion and Putnam Counties"; the acquiring of title to the properties held by the Canal Authority; and the immediate lowering of the water level of the Rodman Pool), the first two of these would appear to involve only policies, actions and relationships among departments and agencies in the Executive Branch, which in the absence of a limiting statute it would be within the prerogative of the Executive Branch to adjust and iron out among such departments and agencies.

As to the third proposal, however, (the transfer to the Forest Service by executive and administrative action of jurisdiction over the Canal Authority's lands and the structures thereon), this would seem, from statements contained in the EIS, to involve an intent and threat to engage, if the jurisdictional transfer were made, in a dismantlement or alteration of some of the Canal's structures and incidents. No more right, however, to make dismantlements or alterations of the Canal situation could become conferred upon the Forest Service by the proposed transfer of jurisdiction than the President was possessed of to make a termination of the Canal project.

The last two proposals (the acquiring of legal title by the Forest Service to the properties held by the Canal Authority in the Oklawaha area and the question of immediately lowering the level of Rodman Pool) also would involve justiciable questions in respect to the Canal Authority (the State of Florida) and probably too as to property owners in the relation of the takings, sales, and grants of titles and easements which had occurred as to them.

But laying the President's termination order to the side, the matters which have been enumerated are without basis to hold that the Forest Service could not submit proposals for administrative action in respect to the Barge Canal project and prepare an EIS in connection therewith merely because of the status of the Canal as a Corps of Engineers project. To engage in repetition: in the absence of a prohibiting statute, the mere making of such proposals and the preparation of an EIS therefor would be matters for internal regulation and control by the Executive Branch in the interrelationships of its agency structures. And again repeating: where the field involved is one in which more than one agency may have a subject-matter interest and an environmental concern, generally speaking it is for the Executive Branch to say which one of them should be permitted to make the proposals for administrative action.

NEPA would not thereby be violated for its primary concern in this respect is not by what particular agency such a proposal may be made, but that "all agencies of the Federal Government shall * * * include in every recommendation or report on proposals for legislation and other major Federal actions significantly affecting the quality of the human environment, a detailed statement [EIS] by the responsible official" on the five aspects set out in §4332(2) (C) of the statute, and that "the responsible official shall consult with and obtain the comments of any Federal agency which has jurisdiction by law or special expertise with respect to any environmental impact involved."

The Guidelines issued by CEQ, 36 Fed. Reg. 7724 et seq., have attempted to assist the Executive Branch in handling the problems and controversies which are capable of arising among the agencies in relation to environmental situations, by a provision in §5 (iii) (b) thereof for constituting one of such agencies as the "lead agency" to make the proposals and prepare the EIS in connection therewith, and defining the term "lead agency" as follows: "'Lead agency' refers to the Federal agency which has primary authority for committing the Federal Government to a course of action with significant environmental impact". The section further provides that "As necessary, the Council on Environmental Quality will assist in resolving questions of lead agency determination".

In the situation here, it had been agreed by the Secretary of the Army (in the chain of command existing in him as to the Corps of Engineers), by the other Departments of the Executive Branch (and thus by their constituent agencies) having a subject-matter interest in the proposals and their environmental effects, and also by CEQ, that the Forest Service should constitute the agency to make the proposals and prepare the EIS incident thereto. Hence in respect to interagency relationships and also within the facilitating provisions of the CEQ Guidelines, the Forest Service here occupied the position of lead agency for making the administrative proposals involved.

The Forest Service's EIS is therefore entitled to be dealt with on its merits. This includes the questions of whether the EIS had been so predicated on and controlled by the invalid premise that the President's order had put an end to the Canal project as to make the EIS legally defective, and also whether otherwise its contents on the materials thereof and in the evaluations and conclusions made therefrom were sufficient under NEPA.

VI.

The questions of the legal defectiveness and sufficiency otherwise of the EIS.

(5)

On the question of the legal defectiveness of the EIS, it seems clear that the EIS has proceeded in its administrative proposals on the premise and has dealt with the Canal situation on the basis that the President's order had validly put an end to the project.

The understanding which was arrived at in connection with the designation of the Forest Service to prepare the EIS, that the EIS was to be proceeded with upon the basis that the Canal was ended, has previously been mentioned. That the Forest Service had performed its EIS task on this basis seems to me to be evidenced by the the fact that CEQ permitted the EIS to be released as having satisfactorily implemented the CEQ and Army recommendations. The EIS itself also contains express indication that the invalid premise had constituted the basis of its approach and results.

Thus in the "Chronology of Pertinent Actions" set out in the EIS, the President's order was characterized as follows (p. 6):

> "1971, Jan. 19--President terminates construction of Barge Canal and directs Department of Army and CEQ to prepare recommendations for the future of the area."

In the part entitled "Background for the Proposal" (p. 9), the following statement (p. 10) was made as to the nature of the approach taken by the EIS:

> "In his statement halting the project, the President also asked for the Secretary of the Army to work with the Council on Environmental Quality in developing recommendations for the future of the area. Pursuant to this directive, the CEQ and Army conducted a study of the situation and produced recommendations for the future of the Oklawaha area. To implement these recommendations, in accordance with the requirements of the National Environmental Policy Act of 1969, the Forest Service has prepared this proposal and environmental impact statement". (Emphasis added).

The following statements in the EIS (p. 103-104) add confirmation that the Forest Service regarded the President's order as having terminated the Canal and as thus having left the Oklawaha area and the Canal elements constructed therein subject to being dealt with, not only in the general actions proposed, but also in immediate administrative actions (the intent or thrust of which I have referred to above) against certain existing elements in the Canal situation:

> "Objectives of the proposed action are to preserve and protect sections of the Oklawaha River as a natural system and to return as much of the disturbed river as possible to its natural condition. While the management or disposition of certain structures will be determined by the Wild and Scenic River Study, immediate attention should be given to two structures that impair the natural flowage of the Oklawaha River. These obstacles are Eureka Dam and Lock and the roadbed of Old State Highway 40 crossing the Oklawaha River near Silver Springs.
>
> "* * * Without the removal of the roadbed, it may be necessary to channelize stream reaches in the vicinity of SR 40 to increase discharge capacity to carry projected future upstream runoff. Presence of the roadbed also detracts from the aesthetics of the area and would affect eligibility

> of this section of the river for inclusion in the National Wild and Scenic River System. Removal of the old roadbed of State Highway 40 in the flood plain of the Oklawaha River would return the flood plain to its natural condition.
>
> "Eureka Dam and Lock retard free flowage of the Oklawaha River during periods of high water, which increase the duration and extent of temporary flooding, with resulting adverse ecological impacts on the flood plain. The dam and lock also detract from aesthetic amenities of the Oklawaha River. Because of presidential action in terminating the construction of the Canal, there now is no functional need for Eureka Dam and Lock. In addition, the hydrologic impacts of these structures on the flood plain and the visual effect on the aesthetic amenities of the river valley make it necessary for the removal in whole or in part of Eureka Dam and Lock to return the flood plain to its natural condition." (Emphasis added).

The immediate alterations and dismantlements thus proposed are, as I have previously stated, not matters which the President could have directed to be taken or which the EIS could seek to have immediately administratively effected, except upon the basis that the Canal had been validly terminated.

I find and hold that the EIS has been premised in the administrative actions proposed to be taken upon the invalid basis that the Canal was terminated. Thus (with the exception of the proposals to have the proclamation boundary of the Ocala National Forest merely generally extended and to have the lands owned by the Canal Authority merely geographically included in the Forest area, as discussed in section V(4), supra), the EIS is without basis for having the proposed actions administratively taken and in that sense is legally defective as being fallaciously premised.

(6)

Even however if the EIS had not been in this sense legally defective, I find and hold that it also otherwise must be regarded as being insufficient under NEPA. As previously noted, it does not deal with the entire Canal project, but only with the Oklawaha River portions thereof. There exists a completed segment on the east end of the Canal, consisting of a dredged barge course extending into the St. Johns River, and a completed segment consisting of a constructed vessel channel extending from the Withlacoochee River area some 10 miles out into the Gulf of Mexico, as well as some other things of substantiality which have been done in that area as project-related incidents.

The Canal as it had been authorized and designed and as its construction had been proceeded with, constituted an integral project. It clearly involved environmental impacts other than those in the Oklawaha part, as the Chairman of the Senate Committee on Appropriations took occasion to bring out in the Recall Hearings held on the appropriation measure.

The Report of the Proceedings in the Recall Hearings also shows that the Chairman of the Committee (Senator Stennis) had at that time further pertinently observed:

> "How could a decision be reasonably made on the Ocklawaha without first looking at the whole thing? It seems to me that these environmental statements are supposed to bring out all the environmental effects and all the alternatives involved in a decision * * *. But now they want us to sit still for what sounds like an impact statement that is incomplete, based on a CEQ document, and prepared by an agency only partly involved in the basic decision. * * *
>
> "* * * I resent the fact that Congress hasn't been given a decent opportunity to consider this whole decision in adequate fashion. It appears to me what is happening is that these recommendations you talk about will come limping up here one by one and we will never get the whole thing pulled together * * *."

Only the premise that the Canal had been validly terminated could provide basis for the EIS to deal with the integral Canal project on this fragmentized basis. With the President's order being in this respect invalid, the fragmentized dealing of the EIS with the Canal situation would have no different stature than a direct attempt to strangle the project by engaging in a segmentary choking of it. It may well be that the Oklawaha River should never have been permitted to be incorporated into the Canal system, but the facts remain that it was; that the project has never been legally terminated and so still exists; that any executive or administrative attempts to excise the Oklawaha River portion from the Canal system would involve economic, social and ecological consequences not only to the project but to the area generally; and that any EIS aimed at having such an extraction made would normally be expected to provide information and consideration in respect to the whole situation.

Among other things, I am not able to see how such an EIS properly could escape having a current cost/benefit evaluation made of the whole project, with this, of course, necessarily including a proper quantification in over-all aspect of the various environmental pluses and minuses that are involved. To view the situation otherwise, it seems to me, would not comport with the full disclosure intent of NEPA either as a matter of entitling public judgment to be informedly made or of enabling Congress to engage in responsible and balancing legislative determination on whether the Canal as such should be continued, modified, or wholly terminated.

But even on a narrower basis, I regard the EIS in respect to its administrative proposals that are saliently affective of the situation as not being sufficient under NEPA. For example, the EIS admits that a substantial problem would be created by a carrying out of the administrative proposals from the interrelation which exists of the Four Rivers Basin drainage situation to the Oklawaha portion of the Canal project, but the EIS does not deal with the manner and cost of providing a solution thereto. As another example, the EIS assumes that all that could be involved from an economic standpoint in respect to its proposal for acquiring the titles and easements held by the Canal Authority in the Oklawaha segment would simply be to make reimbursement to the Canal Authority (i.e. the State of Florida) of the amounts of its acquisition costs. But for the Government to undertake to acquire such titles and easements for a use other than Canal purposes, would seem on its face to suggest realistic potentialities of problems and complications with which the EIS does not deal. I should naturally suppose that not only Congress but the public would be entitled and would expect to have the EIS alert it and provide it with more information than a bare assumption that the takings, sales and grants of titles and easements which have occurred will involve only a reimbursement of acquisition costs for dedication to Canal purposes.

There are a number of other relevant aspects also which the EIS leaves dangling, but I do not deem it necessary to go into these here, for in practical viewpoint it seems to me that these would inevitably be covered or become washed out by an EIS on the whole project such as Congress intended and desired be done.

The significance of the $150,000 appropriation and the executive impoundment thereof in the relationship of this to the result here reached will be next discussed.

VII.

The $150,000 EIS appropriation and its executive impoundment.

(7)

The expressions at the Recall Hearings on the appropriation measure made by the Chairman of the Senate Committee on Appropriations and the relation thereof to the fragmentized dealing made by the Forest Service's draft EIS have previously been alluded to. These were also reflected by the following portion of the Committee Report dealing with the $150,000 EIS item (H.R. No. 1151, p. 23, June 1972 [to accompany H.R. 15586]):

> "The Committee has recommended in the bill $150,000 to initiate a detailed and complete environmental impact study of the project. The study should give consideration to all environmental and other factors requisite to a determination of appropriate action to be taken in the management of completed portions of the project. Such a study, including the preparation of an environmental impact statement as required by Section 102 of the National Environmental Policy Act, has never been provided for the project, and the Committee believes that it is essential that such information be available before final determinations can be made concerning follow-on actions that are warranted in connection with the project * * *".

It is inescapable that the question of what the fate of the Barge Canal is to be, whether a continuation, a modification, or a termination and destruction of the project, can only and must be provided answer by Congress. In corollary, it equally has to be recognized, as I have indicated, that Congress is entitled to call for an EIS in such form and content as it deems necessary or desires for making that determination. Repeating for purposes of emphasis: on this phase alone, and apart from any other considerations, the Forest Service's EIS would have to be declared insufficient in the situation. Congress can exclude a situation from the EIS provisions of NEPA, if it so chooses, and it equally has the right to direct what form of EIS it desires to have submitted to it for making decision in a particular situation. The indication of its desire here has, as stated, clearly been made by the special $150,000 EIS appropriation and the expressions in reference thereto contained in the Committee Report accompanying the measure in its legislative course and action.

I had hoped, as I am sure had everyone else, that when the President intruded into the Canal situation, with its long underlying history and its strongly divided public sentiment, with the matter then moving into its technical and tortuous judicial course, some judicial solution would be capable of being found that could put the controversy at rest. I can, however, find no such immediate solution. The situation is going to have to be allowed to grind its way along on such incidents as may arise until Congress sees fit to provide the final answer. To facilitate that end, I feel it incumbent upon me at this stage to see that the intent of Congress is observed, to have prepared and made available to it the EIS which it desired. That can only be done by directing the Office of Management and Budget to make release to the Corps of Engineers of the $150,000 funds which it has impounded.

If because of a conformance to or an adoption of the President's position by the Chief of Engineers and the Secretary of the Army, the preparation by the Corps of Engineers of the desired EIS would constitute a matter of official or public embarrassment to these officials, the statutes would seem to provide an alternative way for dealing with the situation. Under 33 U.S.C. §569a, "The Chief of Engineers is authorized to procure the temporary or intermittent services of experts or consultants or organizations thereof in connection with civil functions of the Corps of Engineers * * *".

The evidence here shows that in the extent to which the field of preparing environmental impact statements has grown at the present time, independent professional organizations of unquestionable standing and reputation have come to exist which are engaged in that general business, and a complete handling of all of the aspects thereof, and that the Corps of Engineers, in the extreme EIS burden with which it has been faced because of its extensive field, has had at times to resort to this means of handling some of its situations.

(8)

The only justifiable basis that I can see for the Office of Management and Budget (OMB) to have made impoundment of the $150,000 EIS funds would be that it regarded the expenditure of such funds for the preparation of an EIS as constituting in the situation a mere duplication of what the Forest Service was then engaged in doing, and that it believed that Congress could not have intended for such a duplicating expenditure of funds to be made. But that premise would have to be regarded as fallacious from the discussion occurring at the Committee Hearings and particularly on the indicated knowledge which the Committee had of the scope and course which the draft EIS had taken. Without going into a discussion of the general question of executive impoundment, in the prominence that it has currently

come to have, it is sufficient here to observe that the amount involved is only $150,000; that no question of fiscal insolvency, unusual inflationary conditions, or other economic emergency concerns is involved; that no implied intention for executive discretion to exist as to the situation can reasonably be read into the Congressional action; and that the impoundment cannot be contended to be within any power of impoundment inherent under the Anti-Deficiency Acts, 31 U.S.C. §665, or in any way impliable from the requirement of 31 U.S.C. §581c-1 for the reporting by the President to Congress of all impoundments made.

The impoundment must therefore be regarded as having been arbitrarily made and the Director of OMB will be ordered to take such action in release as will make the funds available in normal course to the Corps of Engineers for the intended Congressional purpose.

VIII.

The lowering of the water level of Rodman Pool.

(9)

The situation presently stands with a preliminary injunction against the Federal Defendants prohibiting them from lowering the water level of Rodman Pool below its existing m.s.l. height of 18 feet. This prohibition has remained in effect since the preliminary injunction was originally granted by Judge Scott in the Canal Association case, No. 71-486-Civ-J, in July 1971, with the exception of a brief period during the 1972 growing season for which I allowed a temporary reduction to be made from 18 feet to 13 feet.

Although no appeal had been taken from Judge Scott's injunctive order or from my subsequent affirmance and extension thereof to all the cases, successive motions to reopen the water-level question were continued to be made, with each of these repeated motions however being denied by me without hearing because the showings in basis for them did not seem to me to demonstrate an ability to prove such changes in conditions or equities as to call upon me in chancellor conscience to grant another hearing.

Finally, however, the Federal Defendants in a further thrust at obtaining another hearing undertook to have a task force of scientists engage in a study, evaluation and report on the tree situation of the Pool. The sequence of such motions had by that time (as I recall it but without having specifically checked the voluminous files and transcripts) reached a total of four or five in number. With liberality toward the question of public interest, I decided to grant a hearing upon the particular motion. Although I was not without some doubts on the estimates made of the number of trees that would be saved, I allowed a drawdown to be made for the remaining months of the 1972 growing season in experiment and observation and for the dramatization which this would afford the public of the conditions that would thereby come to obtain.

I took occasion in my Memorandum and Order of July 21, 1972, to state:

> "The consequence of the allowed temporary drawdown will not, in the court's view, so substantially affect the Canal project or the Rodman Pool evaluatably as to enable escape to be made from the full play of procedures of the Environmental Policy Act. And so that no contention will be able to be made that the drawdown will be used in ploy, after the 1972 growing season has ended, to urge that the 13-foot level ought practicably and automatically to be continued, the court makes clear that the command of the

> existing injunction that the Pool is to be maintained at an 18-foot level retains its operative force after December 1, 1972. The drawdown sought was for the balance of the 1972 season. The authorization for the existence of a 13-foot level has been granted only for that period of time. Acceptance of the drawdown privilege can be made only upon that basis."

As noted, however, no appeal had been taken from the original granting of the preliminary injunction or the subsequent extension of it to all the cases. No appeal had been taken from any of the denials made of the previous successive motions to reopen and modify. No appeal was taken from the conditions which I imposed in relation to allowing the lowering of the Pool to be made only to December 1, 1972. The level of the Pool was returned to its 18-foot height after December 1, 1972, in accordance with the July 21, 1972, order. After all this had occurred, the Federal Defendants again pressed for another water-level lowering. I refused to engage in any further consideration or reopening of the question. The Federal Defendants and EDF then took appeals from this refusal on my part, despite their failure to have sought a review on any of the aspects I have detailed above.

These appeals are now pending in the Court of Appeals, and generally speaking I would be without jurisdiction to engage in any action that might affect their status. But the cases have by desire and request of all the parties since been allowed to move forward through a trial on the merits in the hope of achieving a final disposition of the controversy. The question of whether the 18-foot level of the Rodman Pool should be allowed to remain and the preliminary injunction thus be made permanent until Congress has acted on the situation is inescapably linked to some of the trial determinations. In this incidence, I again gave consideration to the evidence on the tree situation and the contextual significance of that question in the present status of the Canal.

As I have observed, the Canal project still legally exists; the environmental, ecological and physical conditions which have been created by the construction done constitute a status quo having public values of its own; and an indefinite lowering of the water level of the Pool will materially affect that status, particularly its recreational uses and values. The restoring of these conditions in the event Congress should decide to continue the Canal project or to allow the Rodman Pool to remain as a separate recreation facility cannot in my judgment be as simply accomplished as the Federal Defendants contend. A three-year drawdown (which is the length of time estimated by the Forest Service's EIS that a wild and scenic river study might consume) would cause the Pool to become incapable of any recreational or other enjoyment for a long time thereafter, as the few months' drawdown permitted in 1972 seems to me persuasively to demonstrate. Even that short period of drawdown resulted in the Pool becoming completely covered and matted with aquatic weed growth. It occasioned the death of thousands of fish of eatable and general-sport size and of millions of young fish of a length of three inches or less. It left the area with aesthetic conditions repellent to general visitors, picknickers, campers, and adjacent land owners. To restore the Pool to its previous status would not be a mere task of adding another five feet of water, but, as a part of the evidence suggests, requiring that a complete draining of the Pool be made; clearing out the totally controlling weed growth; and engaging in engineering actions to restore the bottom of the Pool to its original level and soil conditions--or in effect to reestablish the Lake.

Against this, the question of the number of trees that might be saved does not seem to me to be overbalancing in the situation. What would be involved is, in forest terms, a relatively small area and amount of trees. The situation does not consist of a solid tree stand, but a mixed or spotted condition of in part live trees and in part dead trees. The restoration of the area to a climax forest state, if that should be the result ultimately decided on by Congress, will in any event require a substantially long period of time. Realistically, I do not think that a ten or twenty-year period has too much significance in the history of a forest or in public interest and concern. Besides, the counting of trees in the sample plots chosen as a basis for estimating the total number of trees involved appears to have included not merely the trees of long growth, but to have extended as well to the trees with only a one-inch trunk.

My concern judicially is not in guessing at what the ultimate decision of Congress may be. I am interested from the standard of fairness and justice in having the parties and the strongly divided general public afforded as equitable a position as possible for getting this bitter controversy fully viewed and disposed of by Congress. It is not within my province to be swayed by a speculation on what Congress may ultimately do. Congress will in my judgment be in a better position relatively to evaluate the whole situation with the 18-foot level of

Rodman Pool being allowed to remain, since this constitutes in fact the status quo which has been created and exists.

I shall therefore make the preliminary injunction permanent until Congress has taken some indicative action. If this might appear to trespass on the jurisdiction of the Court of Appeals over the pending appeals (which I do not regard it as doing in the circumstances) this can become solved through the parties taking an immediate appeal from the judgment herein and so enabling the Court of Appeals in sound judicial administration to deal with the whole situation.

IX.

The other claims in the EDF suit and in the Perko suit, as referred to in Section IV hereof, can be disposed of in short shrift.

The claim of EDF that the construction of Rodman Reservoir should be declared to be unlawful and the situation thus held to be that the reservoir has never had a valid existence is without merit and the claim will accordingly be dismissed. The primary basis of the claim was that the Rodman Dam had been built some distance below the location shown in the preliminary plans which had been submitted by the Chief of Engineers to Congress. But in my opinion the documents involved (H.D. 109) can no more be said to show an intention on the part of Congress to preclude the Secretary of War (as here material, the Secretary of the Army) from making any change or modification in the preliminary plans as to the dam location than did the documents and the situational elements dealt with in United States v. 2,606.84 Acres of Land, etc., 432 F.2d 1286, at 1292-1293 (5 Cir. 1970). The

Canal Authorizing Act (56 Stat. 705) made no mention of the particular components of the Canal Authority or their locations. The general plans referred to in the Act were outlined in a letter of the Chief of Engineers dated June 15, 1942. The route authorized was described as the "most feasible method". In another letter from the Corps, dated June 12, 1942, the War Department had recommended the Barge Canal "generally as shown in the accompanying drawing, and subject to modification as may be found desirable in the discretion of the Secretary of War and the Chief of Engineers".

The change in dam location here involved was in my opinion within the approval power of the Chief of Engineers under 33 U.S.C. §401.

Nor does the claim that there had further been a violation of the Canal Authorizing Act, in that the plans submitted by the Chief of Engineers had stated that there would be no "effect on the ground water in the area" afford a basis to hold the Canal to be unlawful. There existed a sufficient basis for the Chief of Engineers to hold that judgment. Further, Congress had accepted the judgment of the Chief of Engineers at the time. But beyond this, the question could not in any event afford a basis for the EDF to have the project declared to be ab initio unlawful. The only right it could have at this state of the Canal controversy would be to seek to have the construction of the Canal halted and have Congress revoke its existing authorization of the project or direct that termination and dismantlement thereof be made.

One of EDF's other claims was that in the construction of the portions of the Canal in the Oklawaha River area there had not been such cooperation on the part of the Corps of Engineers with the Fish and Wildlife Service of the Department of the Interior as was required by 16 U.S.C. §662 of the Fish and Wildlife Coordination Act. But the lack of substantiality in this claim as a separate means of reaching at the Canal project is persuasively dealt with in EDF, Inc. v. Froelke, 473 F.2d 346 at 356 (8 Cir. 1972), as follows:

> "But as Judge Eisele said in Environmental Defense Fund v. Corps of Engineers, 325 F.Supp. 749, 754 (E.D. Ar. 1971) * * *, if the Corps complies with NEPA in good faith, it will 'automatically take into consideration all the factors required by the Fish and Wildlife Act and it is not reasonable to require them to do both separately.'"

Any such attack upon a Corps of Engineers project as to which the EIS has appropriately been prepared by another agency (here the Forest Service) must, in such basis, if any, as the claim might be capable of having, equally have its channel through the contents of the EIS.

What I have just said is applicable also to the rest of the claims asserted by EDF, and no further expression need be made in disposition of them except to repeat that they all are subsumed into the contents of the EIS prepared in relation to the situation and the question of its adequacy under NEPA. All of these claims will accordingly be dismissed.

The general claim of EDF to a right to have construction of the Canal halted until an EIS under NEPA had been provided will, however, in the situation be permitted to stand. While the change in position which has occurred on the part of the Federal Defendants might make the claim presently unnecessary, EDF had instituted its action while the construction of the Canal was still going on and its right on that basis to remain in the litigation until the controversy has come to an end will be accorded recognition despite the desire of both the Canal Authority and the Federal Defendants to get it out of the litigation.

As to the claim in the Perko case of a right to have the Rodman Pool remain, on contract, quasicontract or other obligational basis, that claim is premature and will probably have to try to seek its channel, if Congress decides to destroy the Pool, in the provisions of the Tucker Act, 28 U.S.C. §1346(2). The claim will therefore be dismissed without prejudice.

JUDGMENT

On the basis of the foregoing Opinion, it is ORDERED AND ADJUDGED as follows:

1. The Environmental Impact Statement of the Forest Service is hereby declaratorily adjudged to be legally defective as a basis for a right to take the administrative actions proposed therein of depriving the Cross-Florida Barge Canal of its status as an existing public-works project and of altering the environmental, ecological or structural conditions which presently obtain in relation to it.

2. The Federal Defendants are hereby enjoined from engaging in any acts of destruction or alteration of the environmental, ecological or structural conditions presently existing in the Cross-Florida Barge Canal project, until Congress has taken some authorizing action or made other official indication of its desire to have such a destruction or alteration made.

3. The preliminary injunction presently existing as to the Rodman Pool (Lake Ocklawaha) is hereby made permanent, with leave to apply to have it vacated or modified, as may be appropriate, if Congress engages in authorizing action or makes other official indication, as referred to in paragraph 2 hereof.

4. The Director of the Office of Management and Budget is hereby directed to release and make available the $150,000 funds appropriated by Congress for use by the Corps of Engineers to prepare or have prepared for it "a detailed and complete environmental impact study of the project", with the inclusion therein of "all environmental and other factors requisite to a determination of appropriate action to be taken in the management of completed portions of the project".

5. A period of six months from the entry of this Judgment is hereby granted for having such EIS task completed and the EIS filed herein, except as some necessary extension thereof may be granted for good cause shown.

6. Reservation of jurisdiction is hereby made to deal with any arising question, inherent or of other proper incidence, necessary to effect a final termination of the present litigation.

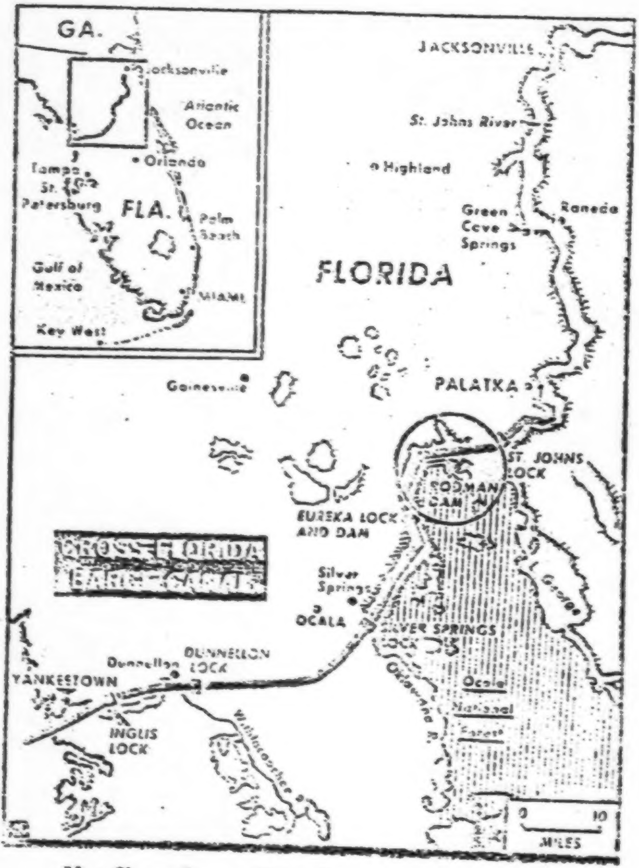
DATED January 31, 1974.

BY THE COURT:

Harvey M. Johnsen

Senior Circuit Judge of the Eighth Circuit,
sitting by designation.

APPENDIX A


GA.
Jacksonville
Atlantic Ocean
Orlando
Tampa
St. Petersburg
FLA.
Palm Beach
Gulf of Mexico
MIAMI
Key West
MILES
JACKSONVILLE
St. Johns River
Highland
Green Cove Springs
Raneda
FLORIDA
Gainesville
PALATKA
ST. JOHNS LOCK
RODMAN DAM
EUREKA LOCK AND DAM
CROSS-FLORIDA BARGE CANAL
Silver Springs
OCALA
SILVER SPRINGS LOCK
L. George
Ocala National Forest
Oklawaha R.
YANKEETOWN
Dunnellon
DUNNELLON LOCK
INGLIS LOCK
Withlacoochee R.
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10
MILES

Map Shows Route, Major Features of Barge Canal

From the Miami Herald
August 6, 1973

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WESLEY R. THIES, Clerk

By:
Deputy Clerk
U.S. District Court, Jacksonville, Fla.
P.O. Box 4997 Jacksonville, Florida 32201

EXHIBIT "B"

BEST COPY AVAILABLE

CERTIFICATE OF SERVICE

I HEREBY CERTIFY THAT a copy of the foregoing has beenfurnished by Hand to the following persons this 4th day of February 1974

Ralph Elliott, Esq. 815 American Heritage Bldg.
Jacksonville, Florida 32202
John L. Briggs, Esq. U.S. Attorney P.O. Box 59 Jacksonville, Florida 32201
Daniel Livermoore, Esq. 1300 City Hall Jacksonville, Florida 32202
Tracy Danese, Esq. Suite 716 Florida Title Bldg. Jacksonville, Florida 32202

I HEREBY CERTIFY THAT a copy of the foregoing has been furnished by airmail to the following persons this 4th day of February 1974

Frederick L. Miller Esq. Department of Justice
Division of Lands and Natural Resources Room 2615 Washington, D. C. 20530

Jon T. Brown, Esquire 1700 Pennsylvania Avenue, N.W.
Washington, D. C. 20006

Edward Lee Rogers, Esq. 162 Old Town Road
East Setauket, New York 11733

Wallace H. Johnson, Esq. Edmund B. Clark, Esq. Jacques B. Gelin, Esq.
Attorneys Department of justice
Washington, D. C. 20530

I HEREBY CERTIFY THAT a copy of the foregoing has been furnished by mail to the following persons this 4th day of February 1974

Ronald E. Clark, Esq. P.O. Drawer V Palatka, Florida 32077

William L. Eagan, Esq. P.O. Box 2967 Orlando, Florida

Willard Ayers, Esq. 21 Northwest 1st. Avenue Ocala, Florida 32670

WESLEY R. THIES, CLERK
By: Frank D. Henderson Jr.
Deputy Clerk

ADDITIONS TO THE RECORD

GICA
GULF INTRACOASTAL
CANAL ASSOCIATION
Organized At Victoria, Texas - August 8, 1905

DUANE ORR
President
Corpus Christi, Texas

VERNON BEHRHORST
Chairman Executive Committee
Lafayette, Louisiana

R.H. "BOB" PARKER
Vice Chairman Executive Committee
Houston, Texas

June 8, 1985

The Honorable Robert A. Roe, Chairman
Committee on Public Works and Transportation
Subcommittee on Water Resources
United States House of Representatives
Washington, D.C.

Dear Chairman Roe:

We will be unable to attend the hearing on the Cross-Florida Barge Canal in Palatka, Florida on Monday June 10. Because of our great interest in the Cross-Florida Barge Canal since its inception GICA wishes to submit this letter as our position on the Cross-Florida Barge Canal. It is brief, is written without any knowledge of the results of the economic re-evaluation which is being undertaken by the Jacksonville District, which we understand will be revealed at the hearing, and written not knowing the agenda of the hearing.

One week ago today the Tennessee-Tombigbee Waterway was dedicated with great fanfare and expectations. GICA has supported the construction of the Tenn-Tom — another link in our Nation's water transportation system. It was noted during the ceremony by three states - Texas, Georgia and Florida - that the Gulf Intracoastal Waterway is a key waterway in the connecting waterway system if the expectations for the Tenn-Tom are to become realities.

The statement from Georgia was from the perspective of the connection via the Apalachacola-Chattahoochee-Flint Rivers system. Should the Cross-Florida Barge Canal become a reality a comparable statement could be made for the Atlantic-coast ports and waterways of Georgia and other Atlantic-coast states as well. GICA believes that the east coast of Florida stands to be the major beneficiary. The Cross-Florida Barge Canal is thus a state and national waterway.

Bills, H.R. 1813 and S. 792, now before the Congress would deauthorize the Cross-Florida Barge Canal if enacted. While recognizing the problems of having land tied up in a project on which no physical work has been done in over ten years, we feel that deauthorization, which would completely shut the door in this connecting link between the Gulf and Atlantic coasts, would not serve the national interest at this time.

P.O. Box 40002, Lafayette, LA 70504   318/235-6956

Our economy is currently on a plateau, and here in Louisiana my home state our economy is depressed, due primarily to the downturn in energy exploration and production and the decline im maritime commerce, all integrally tied to our water transportation system. With increasing trade deficits, we hear increasing verbal rumblings for protection of our domestic farms, factories and mines. National security demands greater reliance upon domestic sources of energy and the means to distribute these energy resources to points throughout or nation.

The economic vs. environmental, development vs. preservation and state interests vs. national interests issues exist. Implicit in their existence are the means to resolve these issues. GICA is willing and ready to work with your Committee, other federal agencies, the state of Florida and other states and interests to reach accomodation on the Cross-Florida Barge Canal as a viable, future link in our water transportation system.

Governor Mark White of Texas has written letters to the governors of the other Gulf Coast States inviting them to join with him to form a council of the states on issues relating to the Gulf Intracoastal Waterway and connecting waterways. Favorable responses have been received from the states including Florida. No formal action has yet taken place, but the invitation with the affirmative responses is an indication of the attitudes of our states of the need for cooperative resolution of our waterway issues.

History is repleat with examples of irresolvable differences being resolved. In this instance it can happen again. The door should not be shut on the opportunity to resolve these differences.

Sincerely yours,

Vernon Behrhorst

Vernon Behrhorst, Chairman
GICA Executive Committee

cc: Executive Committee

This may be read at the meeting if you wish

Pomona Park, Fla.
June 8, 1985

Mr. Roe
Chairman Water Resources sub-committee
of House of Public Works
c/o St. Johns River Water Management
District Headquarters
Road #100
Palatka, Fla.

Dear Mr. Roe:

As a native of Florida (my family dating back into the 1860s), I am very upset to think that any Floridian (native or those have come here a while) would support the Barge Canal- it is worse yet to think that our City, County, State or Federal elected officers, would go along with this project to destroy a natural scenic river with the swamps and low-lands to catch the overflow in wet weather making a reservoir and filtering system for our water. We are having water problems within the State now due to lack of usual rainfall, plus growth taking more of our resources.

We are destroying ourselves with what they call "progress". Our land is being polluted by burying poisonous waste in the ground; pouring sewage into our streams and lakes destroying the wildlife as well as making them useless for boating or swimming.

Geologists have said this canal could disturb the subterranean streams which supply us with water, making south Florida a desert. It could also disturb our natural springs, including Silver Springs, and others along the line.

IF the barge canal is allowed to continue, who is to say what the shipping companies may ask for next- a bigger and deeper canal so passenger and big freighters can use it. Once they get their foot in the door- how do we know what will happen. (Who would have ever thought Pres. Carter and our Congressmen would give away the Panama Canal)? I'll never understand this!

Let's protect our State Natural Scenic River with its wildlife and water resources. As I see it, and in talking with family and friends and some from Jacksonville, I do not think the people want this project and we have a lot to lose and nothing to gain by destroying the river making just a big ugly ditch. Any savings realized by the shipping companies would be only for them- the general public can realize nothing but loss of a beautiful river.

Thanks for those who are fighting to protect our land. My prayers are with them and surely hope this project can be KILLED forever.

Respectfully Mildred Blackmer
(Mrs.) Mildred Blackmer
Box 483, Pomona Park, Fla. 32081

CC Buddy McKay

BEST COPY AVAILABLE

Telephone (904) 724-5564

Northside Business Men's Club

Post Office Box 9348
JACKSONVILLE, FLORIDA 32208

June 4, 1985

Congressman Charles Bennett
400 W. Bay Street
Jacksonville, Florida 32202

Dear Charlie,

At it's May 22, 1985 meeting the Northside Business Men's Club reaffirmed its support of the completion of the Cross Florida Barge Canal. We have long supported the Canal as you can see from the enclosed resolution dated May 25, 1976. We feel it is more needed now than ever before and believe its economic impact would greatly offset the cost in years to come.

Please advise us if we can be of any help to you by drawing up a new resolution or geeting individual support letters from the community.

Sincerely,

Harold Browning

Harold Browning
President

HB/sa

EUGENE L. WALKER
MAYOR-COMMISSIONER
LEON E. CONLEE
COMMISSIONER
JAMES H. BRYAN JR.
COMMISSIONER
KENNY DOWNS
COMMISSIONER
MARY LAWSON BROWN
COMMISSIONER

CITY OF PALATKA
Regular meetings 2nd and 4th Thursdays each month at 7:30 P.M.
P.O. DRAWER 1100
PALATKA, FLORIDA 32078-1100

ALLEN R. BUSH
CITY MANAGER-CLERK
IRENE B. BANKHARDT
TREAS. & TAX COLL.
J. CRAWFORD
CHIEF FIRE DEPT
JIMMY HILL
CHIEF OF POLICE
EDWARD E. HEDSTROM
CITY ATTORNEY

June 10, 1985

Mr. Robert Roe, Chairman
Water Resources Sub-Committee
House Public Works Committee

Mr. Chairman:

The City of Palatka.City Commission welcomes this Committee to out City. We appreciate the opportunity afforded by your visit that we might express our views on the Cross Florida Barge Canal Project.

The City of Palatka has a vital interest in seeing the canal project completed. This interest centers on the positive impact the canal will have on the economy of our area. It will make existing industries more competitive and make Palatka more attractive to new industry. For example, the Seminole Electric Cooperative generating plant in our community burns some 100 railcar loads of coal per day. The railroad currently has a monopoly on the transportation of coal to this area.

Georgia-Pacific Corporation would have an alternate method of transporting raw materials in and shipping paper products out. Sheffield Steel currently uses barges to ship steel beams. A barge route to the Gulf Coast would save them considerable time and money.

Price Brothers Manufacturing ships concrete pipe all over the country. A canal to the Golf Coast cutting their transportation costs would make them more competitive in the industry. Central States Diversified and Florida Furniture Company are two more local industries who would benefit from the canal. By making our local industry more competitive, the City of Palatka and its citizens benefit.

Canals are currently being built around the country to improve transportation for industries in those areas. Palatka is asking for the same opportunity.

The City of Palatka is currently classified by the federal government as an 'economically depressed area'. This project will allow us to improve economic conditions in out city. This project means jobs and dollars to our citizens. The City Commission of the City of Palatka urges your Committee to approve the continuation and completion of the Cross Florida Barge Canal.

Leon E. Conlee
VICE-MAYOR

Marion County Commission
19 NW PINE AVENUE • OCALA, FLORIDA 32670

COMMISSIONERS
BRUCE BARTLETT DIST 1
MURRAY FUGATE DIST 2
ROY ABSHIER DIST 3
T. W. "TOMMY" NEEDHAM DIST 4
STEVE H. GILMAN DIST 5
AREA CODE 904 [illegible]

June 6, 1985

Honorable Robert A. Roe
House of Representatives
Washington, D.C. 20515

Dear Mr. Chairman:

Please be advised the Board of County Commissioners, in meeting held June 4, 1985, unanimously adopted a motion requesting that if the Cross Florida Barge Canal is de-authorized, this right of way remain in public domain.

The Board also requested that Marion County be given first choice as we have suffered the impact of this project for many years and should be allowed some opportunity and time to determine the effect upon the rest of the adjacent lands. Further, the Board directed that I convey this action to you, as well as any other interested parties.

Your support of this request will be greatly appreciated by the Board and the citizens of Marion County.

Very truly yours,

TW Tommy Needham

T. W. "Tommy" Needham,
Chairman
MARION COUNTY BOARD OF
COUNTY COMMISSIONERS

TWN/mw

xc: United States Legislative Delegation
Honorable Bob Graham
Honorable Members of the Florida Cabinet
Marion County Legislative Delegation

CROSS STATE BARGE CANAL HEARING

June 1985

Statement of Nathaniel Pryor Reed

Mr. Chairman:

My name is Nathaniel Reed. I live in Hobe Sound, Florida and am and have been a Florida resident all my life.

I have served four Florida governors in a variety of positions including Chairman of the Department of Air and Water Pollution Control, the predecessor of the present Department of Environmental Regulations. I was appointed assistant Secretary of the Department of Interior by President Nixon and was reappointed by President Ford. I served in Washington nearly six years. I served under Secretaries Morton, Hathaway and Kleppe.

Presently I serve as one of Governor Graham's appointees on the South Florida Water Management District.

I attended the original Cross State Barge Canal hearing in 1966 in the old capital building in Tallahassee and have been involved with it as a proposed project ever since.

Over the years reams of information have been collected on the potential environmental impacts of the proposed project by both opponents and proponents.

Rather than spend your time debating the environmental threats or the dubious economics of the project, I thought it might be more useful for me to publicly examine the pure politics of the Cross State Barge Canal.

It's modern birth is due to former Senator George Smathers' investment in time and energy for John Kennedy's presidential campaign. In spite of President Kennedy's inability to carry Florida, Florida was rewarded by the dusting off of the Florida Canal project.

President Nixon saw fit to torpedo the project on the grounds that it was: 1) uneconomical - a waste of taxpayer's money; 2) a threat to Florida's acquifer; and 3) as a political gesture - it was a democratic boon-doggle.

Accepting the past, where are we today?

Mr. Chairman, three consecutive Florida governors have staunchly opposed the project. Frankly, it is inconceivable that a future Florida gubenatorial candidate would support funding the project.

The legislature, both houses, Republicans and Democrats alike, have a consistent record for ten years of opposing the project. This years' legislature again affirmed its' opposition.

Florida's cabinet officers, uniquely elected independently of the Governor, yet who equally share in all decisions concerning the Department of Natural Resources, have for fourteen years unanimously opposed further construction.

Florida's two United States Senators oppose the project.

A very large percentage of Florida's distinguished House of Representative delegation oppose the project.

Those are the political facts, the realities which you, as a very pragmatic man, should be well aware of.

Then why, Mr. Chairman, wouldn't it make sense to deauthorize the project?

I can think of only three reasons, all political but all politically worth discussion.

First and foremost, Congressman Chappell opposes deauthorizing the project. That's important to the Congress but less important to the American people who are becoming disinterested in "old time" politics. I also recognize that our two deans, Congressman Pepper and Congressman Bennett, still favor this project. In their hearts they know the project is dead but it is hard to give up on a project after forty or fifty years of support.

Second, the Corps does not like Congress deauthorizing any project. The Corps gives up an authorized project like a tiger gives up teeth!

Third, this Committee, the Public Works Committee, stung by President Carter's so called "hit list", gives up projects only after they are deemed non-economical, environmentally unsound, lacking public support or are politically indefensible.

Mr. Chairman, I believe the record clearly shows that the Cross State Barge Canal fails every test save losing Mr. Chappell's, Mr. Bennett's and Mr. Pepper's support.

It is by almost every standard, non-economical. I cannot believe that the project would pass scrutiny by the Office of Management and Budget now when it failed far less stringent examination in 1975 and 1976. I believe the Government Accounting Office would give the project a poor rating.

I cannot believe the House Appropriations Committee would give this project priority over the very long list of projects which are desperately needed and have both public and Congressional support.

I think a fair reading of the intensive environmental studies would conclude that the project posed substantial risk to one of the most important acquifers in Florida.

Mr. Chairman, every poll shows that the project enjoys very little public support even in the counties that were supposed to have benefited from a completed project.

Admittedly this state is growing very quickly with a net gain of 350,000 new residents per year. They might be swayed to support a project which either benefited the national security or the economy of Florida, but the political will to sway the newcomers and the existing population is non-existent. The project is non-defensible and impossible to justify on national interest or economic terms.

Politically, except perhaps in Mr. Chappell's district, the Florida Barge Canal Project is as dead as a doornail.

Mr. Chairman, you know how to put a public works bill together; the compromises, the many and varied interests, public, private and special. You know when to give and when to stand firm. You are a realist, a pragmatic man. That's why you are chairman of this committee. You and I know that the Senate Public Works Committee will never accept the Florida Barge Canal. The western senators have their projects to fund, the northeastern and midwestern senators have waited impatiently for their projects to be funded. Worthy Corps of Engineers' projects are stacked up waiting to be funded.

This Committee must make many judgements. I suggest many of the past rules are outdated if not useless.

The new standards will include a fair, frank overview of the contemporary water resource needs of the individual states and how they stack up in priority.

Projects will not be authorized or funded without knowing what it will cost, what its environmental consequences will be or what plusses for industry and jobs or national defense will be created.

How many people will the project serve at what cost are standard questions which demand honest answers.

Facing the most difficult and dangerous fiscal crisis in our nation's history, this is the moment for this Committee to strike a blow for common sense and fiscal sanity. The Committee does not want a prolonged floor fight over an expendable project.

It's time to weed out the authorized projects that are straw men, charades, and ghosts of the past. The time of the Cross State Barge Canal is past and it is time to put it away.

As Chairman, you have more important assignments. Your Committee and its staff have more important assignments.

Please, Mr. Chairman, deauthorize the Cross State Florida Barge Canal.

Thank you.

Nathaniel P. Reed
Post Office Box 375
Hobe Sound, FL 33455

the
WATERWAYS
JOURNAL
Weekly
SINCE 1887
314-241-7354

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666 Security Bldg.
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STATEMENT ON THE CROSS FLORIDA BARGE CANAL

to the

SUBCOMMITTEE ON WATER RESOURCES

June 10, 1985

The Waterways Journal, a marine publication issued weekly, has been reporting on the Cross Florida Barge Canal since it was first planned, through early construction, the work stoppage, and now the attempts to deauthorize it. Our files have considerable material on the project.

We wish to take the liberty of pointing out to the Subcommitte the following important facts on the Canal as we see them:

The American taxpayers have at least $52.8 million invested in the project; this money will be lost if the project is not completed and/or deauthorized.

Work on the Canal was stopped by an executive order from President Richard Nixon. He bypassed Congress on this. Mr. Nixon stated that there would be environmental damage if the Canal were built; it had already been partly finished. There are some unanswered questions about other reasons the Canal was stopped, including possible relationships with Florida residents; as far as we know Mr. Nixon has never answered these questions.

The environmentalists attacked the Canal as they did other water projects they put on their "hit list." The statements on what the Canal would do to the Florida environment were unsound and were proved so by proponents of the Canal.

The environmental attacks had the backing of the Seaboard railroad which did not want to see water competition across Florida, and less business for its docks in Tampa, Fla. It was type of action by the railroads to also stop the Tennessee-Tombigbee Waterway and new Lock and Dam 26 on the Upper Mississippi near Alton, Ill.

The Canal has also become involved in a sectional dispute in Florida, between the southern area (Miami) and northern region (Jacksonville). This at the expense of the American taxpayer who authorised the project through Congress and approriated money for it.

In addition to, or implementing this regional dispute, we now understand it is involved in Florida politics, with the state administration attempting to get the project deauthorised. We also understand that Florida officials and personnel have been stopped from attending meetings of water resource organizations outside the state because the state administration is afraid they will say something in favor of the Canal.

There are, then many unanswered questions on the Cross Florida Barge Canal which we hope the Subcommittee will consider during the June 10 hearing at Palatka. If the questions are not answered we trust the Subcommittee will solve them before taking ay action on deauthorizing the Canal.

May we again point out that this is a national, not a state of Florida project which has vital national defense applications as well as economic ones. The American taxpayers should not have at least $62.6 million "sunk" because the project is deauthorised.

Statement on Cross Florida Barge Canal

We thank the Subcommittee for considering our statement.

Respectfully,

James V. Swift
Vice-President

mainstream
ST. JOHNS RIVER WATER MANAGEMENT DISTRICT

Volume 6, No. 2

March 1985

NEED FOR HIGHER MILLAGE CAP DETAILED

Briefings Held With Legislators And Public

The St. Johns River Water Management District is continuing its efforts to apprise both the public and the Legislature of the need for an increase in the District's statutory millage cap.

During the past several weeks, Board members and staff have met with local legislative delegations and explained to them why an increase in the millage cap is needed. At the same time, District staff have visited with civic groups and local government officials and brought them much the same message.

Staff have utilized a 12-minute slide show entitled, "What Price . . . For a Priceless Resource" to inform the public about the District's land acquisition program and why a millage cap increase may be warranted at this time.

The District is recommending that their statutory millage cap be raised from the current 0.375 mills to a proposed 0.60 mills.

In the Greater St. Johns Basin, the added revenues are needed to fund an accelerated land acquisition program in the Upper Basin. Escalating land values and the stressed condition of the St. Johns River are the two primary reasons given by the District for seeking the increase.

It is felt that a similar increase is needed in the Oklawaha River Basin because the low tax base there has made it very difficult for the District to provide adequate funding for those basin programs which are considered the minimum necessary for effective water management.

Most legislators have been receptive and willing to listen, but have stopped short of making any early commitments. District staff have described the public response as "quite remarkable considering we're asking people to evaluate a proposal to increase the ceiling on taxes they pay to the Water Management District."

Supporters of the millage cap increase received a shot in the arm when the governor's Florida Rivers Study Committee decided that the situation was serious enough to warrant "a re-examination of the statutory millage limitation placed upon the St. Johns District."

Groups who are interested in arranging for the showing of "What Price . . . For a Priceless Resource" are instructed to contact the District's public information office. □

GRACE PERIOD ENDS FOR CONSUMPTIVE USE PERMITS

District Will Enforce C.U.P. Requirement

A grace period, which afforded special status to all existing large-volume water users within the St. Johns River Water Management District expired on January 1, 1985.

Two years earlier, a rule dealing with consumptive uses of water went into effect. It required a permit for water use breaking any one of three thresholds; 1) ability of system to pump one million gallons per day, 2) average daily pumpage of greater than 100,000 gallons over a year's time, or 3) presence of a well with a casing diameter of six inches or larger.

Existing users were given two years from the implementation date to apply for a consumptive use permit. With the expiration of this grace period comes the end of what was designated as "existing user" status. All unpermitted users will now be considered new users.

Basically this means that the needs of permitted users will take precedence over the requests of new users. Permits for new uses may contain special conditions, or otherwise reasonable allotments may have to be reduced so as not to negatively impact the rights of existing permitted users.

Even more critical is the fact that large volume users who did not apply for a consumptive user permit prior to January 1 can no longer legally pump water.

According to Dennies Kamp, director of the District's Division of Records, many individuals waited until the last minute to apply for their permits.

"During the first 23 months the permitting program was in effect we received an average of 78 permit applications per month.

"During the 24th month, which ended the grace period, we received a total of 712 permit applications,"

(Continued on page 3)

Smith Appointed To Governing Board

Kelley Smith, Jr. of Putnam County was recently appointed by Governor Bob Graham to the St. Johns River Water Management District Governing Board.

Smith, 38-year-old general manager of Gator Logging, Inc. was raised in Putnam County and graduated from the University of Florida. Smith served on the Northeast Florida Regional Planning Council and the Putnam County Commission. He is active in the Florida Forestry Association, is a reservist in the National Guard and is currently a director of the Putnam County Chamber of Commerce.

Smith replaces D.A. Martinez, also of Putnam County. Martinez, a vice-president of Georgia-Pacific Corporation, resigned from the Board when he was transferred from the Palatka plant to corporate headquarters in Atlanta.

Other members of the nine-member Governing Board are: Chairman Idwal Owen, Jr. of Duval County; Vice-chairman Michael Braddock of Volusia County; Secretary Lynne Capehart of Alachua County; Treasurer Ralph Simmons of Nassau County; Frances Pignone of Orange County; Frank Friedmann, Jr. of Duval County; James Swann of Brevard County; and John Minton of Indian River County.

Governing Board members serve four-year terms without pay. ☐

Kelley Smith, Jr., receives the oath of office from Kathryn Mennella, staff attorney.

Changes In Regulations Concerning Type II Wildlife Area

The Governing Board approved two changes in regulations governing the Upper St. Johns River Marsh Type II Wildlife Management and Recreation Area.

The first change will establish a holding area for tracked and wheeled vehicles for those which are permitted for two or more non-consecutive hunt periods. It is hoped that this change will reduce damage caused by these large vehicles moving in and out of the marsh in-between hunt periods.

The second change limits to six the number of persons allowed on these vehicles at any one time. This change was made for safety purposes. Both changes will now be forwarded to the Florida Game and Fresh Water Fish Commission.

The board decided not to close access to the marsh from a portion of the Fellsmere Grade based on a revised staff recommendation. District staff did make clear, however, that the Grade was included in the Wildlife Management and Recreation Area and was closed to discharge or possession of loaded weapons during hunt periods. No firearms at all would be allowed outside of hunting season. ☐

WATER WELL CONSTRUCTION RULE AMENDED

An amendment to the District rule regulating water well construction which contains two major revisions became effective March 14, 1985.

The first revision affects telescoping wells in which the diameter of the external casing is four inches or less. For these telescoping wells, the annular space around the internal casing is so small that meeting standard grouting requirements is extremely difficult.

Standard grouting will not be required for these wells, where the clay formation through which the internal casing passes naturally caves in around the casing, forming an acceptable seal.

Gasket-like devices called K-packers are used to seal off the annular space between the external and internal casings of the telescoping well. Cement grouting must be used to seal the larger annular space between the borehole wall and the external casing. An area in northeast Florida has been identified in which this caving nature appears to exist.

There may be some caving experienced during the construction of other types of wells. However, it is only with these telescoping wells that the caving around the internal casing has proven to be an acceptable alternative to grouting.

The second revision will allow well drillers to seat well casings into overlying carbonate strata instead of having to extend the casing all the way down to the producing aquifer. This technique can only be used in areas where the overlying strata is of such a geologic makeup that the open borehole will function in much the same manner as casing would.

District staff have defined three areas within the St. Johns District where the use of this construction method appears to be feasible. The northernmost area is centered around Putnam County, the middle area around Seminole County and the lower area in a coastal portion of Brevard and Indian River counties. As with the telescoping wells, drillers must encounter the expected geological conditions before they can utilize these special techniques, otherwise the other construction standards prescribed in the rule must be followed.

Maps defining the areas where these revisions may prove applicable have been prepared by District staff to serve as general guidelines for licensed well drillers. ☐

Board Approves Updated Plan

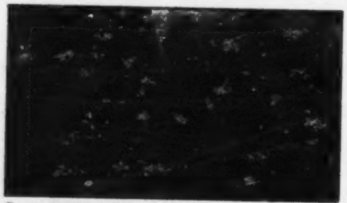
The Governing Board approved an updated five-year plan for land acquisition which will now be forwarded to the Legislature and the state Department of Environmental Regulation.

Lands to be acquired have been separated into three categories, with the highest priority going to those parcels located in the Upper St. Johns River Basin and which are a part of a U.S. Army Corps of Engineers plan for restoration of the river's headwaters.

The District hopes to acquire approximately 59,000 acres in the Corps' project area. To date, the District has purchased, or has agreements to purchase, about 29,000 of these privately-owned lands.

In addition, the District has identified approximately 79 Upper St. Johns River Basin parcels consisting of 63,900 acres located just north of the project area which are also targeted for acquisition. These lands would be bought for the primary purposes of flood control, water quality improvements and water conservation.

If funding is available the District hopes to have all these Upper Basin lands purchased within the next five years. ☐



Touring lands which are a part of the District's five-year plan for land acquisition are (left to right) Ideal Owen, Jr., Governing Board Chairman; Mildred Horton, Deputy Executive Director; Henry Dean, Executive Director; and Col. Charles T. Myer III, Army Corps of Engineers.

PERMITS *Continued*

noted Ms. Kemp.

R. Duke Woodson, director of the District's Department of Resource Management, thinks there's a good number of unpermitted large volume users out there.

"Through December 31, 1984 the District received about 2,700 consumptive use permit applications. Our economic impact statement indicates that there may well be over 1,000 more who should have applied for a permit," said Woodson.

"We are actively pursuing those who are pumping illegally. It's likely we'll ask them to sign a consent order which will specify that they stop pumping, apply for a permit and pay a fine of somewhere around $300 to $500.

"And," said Woodson, "as a last resort we can take those who refuse to comply with the rule to court."

Questions regarding consumptive use permitting should be directed to the District's Department of Resource Management at (904) 328-8321. ☐

DISTRICT EMPLOYEES HONORED

Kevin Seamon (third from left) was recently awarded a plaque honoring him as St. Johns River Water Management District's "Employee of the Year". Seamon, a Paralegal Technician, has worked in the District's Office of Legal Services for four years. His supervisor, Vance Kidder, Director of Legal Services, stated, "Kevin is extremely knowledgeable about substantive and procedural law that affects and guides the District".

Pictured on the far left is Hal Wilkening, an Engineer III, who was recognized as an honorary employee of the year. On the back row is Henry Dean, District Executive Director, and Idwal H. Owen, Jr., Governing Board Chairman. Also recognized as honorary employee of the year was Carol Fall, an Environmental Specialist IV. ☐

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